

Federal register

MONDAY, NOVEMBER 15, 1976



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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Federal Register

(For Details, See 41 FR 46527, Oct. 21, 1976)

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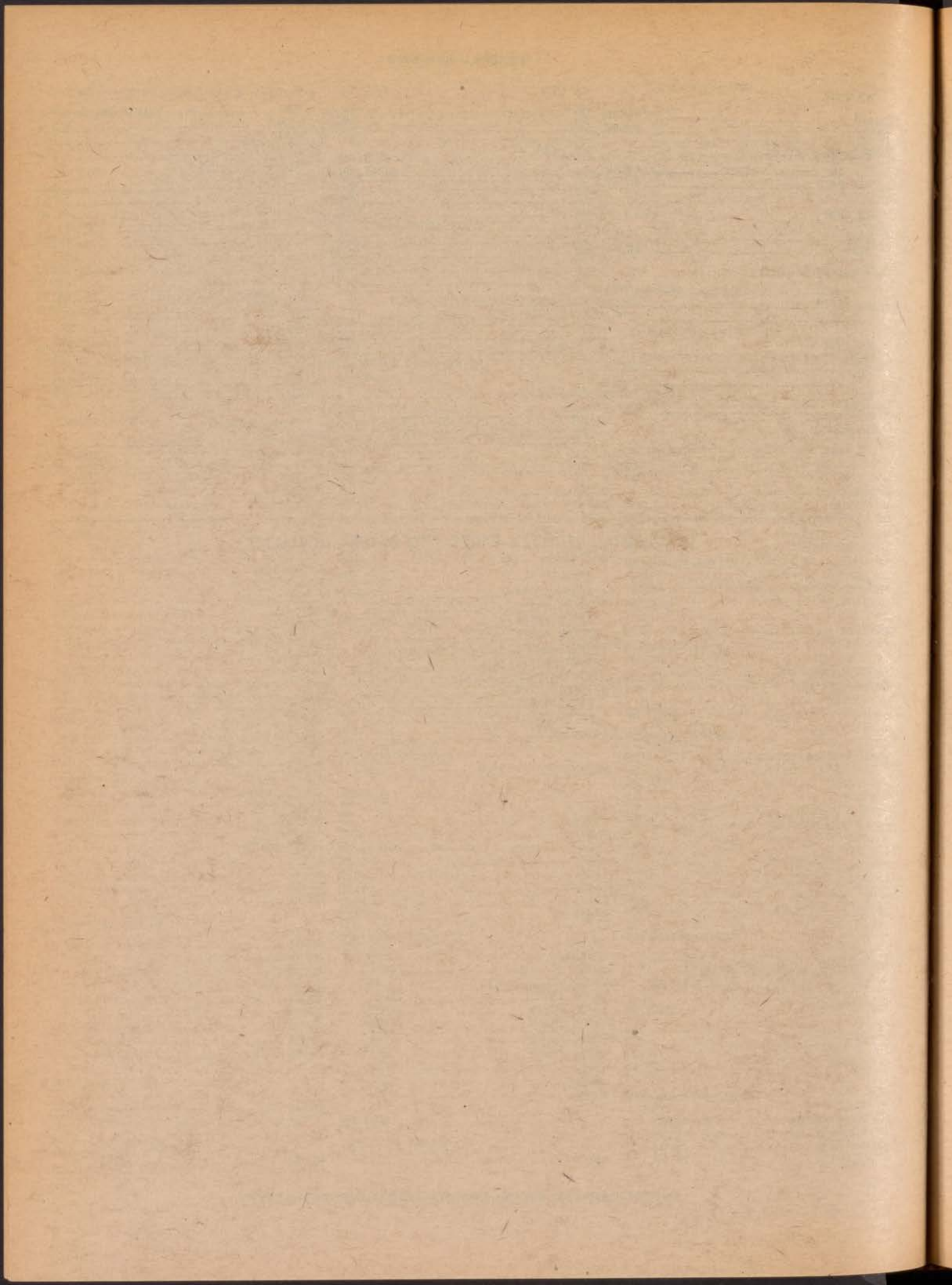
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Title 18—Conservation of Power and Water Resources

CHAPTER 1—FEDERAL POWER COMMISSION

[Docket No. RM75-14; Opinion No. 770-A]

PART 2—GENERAL POLICY AND INTERPRETATIONS

PART 154—RATE SCHEDULES AND TARIFFS

National Rates for Jurisdictional Sales of Natural Gas Dedicated to Interstate Commerce; Opinion and Order on Rehearing

On July 27, 1976, the Commission issued its Opinion No. 770¹ determining and establishing just and reasonable national rates for sales of natural gas in interstate commerce. A new national rate of \$1.42 per Mcf, with a one cent per quarter escalator, was prescribed for sales of natural gas from wells commenced on and after January 1, 1975, or for sales of gas newly dedicated to interstate commerce on and after January 1, 1975. A new national rate of \$1.01 per Mcf was prescribed for sales of natural gas from wells commenced and new dedications on or after January 1, 1973, and prior to January 1, 1975. The 52 cent rate for "renewal" contracts, as set forth in Opinion No. 699-H, was also maintained.

On August 13, 1976, the Commission issued an order, acceding to an order issued by the U.S. Circuit Court of Appeals in *APGA v F.P.C.*, D.C. Cir. No. 76-1694, stating explicitly that any rates filed under Opinion No. 770 were subject to refund pending final order on rehearing.

Twenty-four petitions to intervene and 27 applications for rehearing, reconsideration, or clarification of Opinion No. 770 were filed by natural gas producers, interstate pipelines, gas distributors, consumer protection groups, State agencies, four United States Senators, 15 members of the United States House of Representatives, and several trade associations.² On September 16 and 17, 1976, the Commission heard oral argument by 15 parties related to the merits of Opinion No. 770.³ At least three Commissioners support each element of this decision.

I. SCOPE OF THE OPINION

A. OVERVIEW

On the basis of the contentions set forth in the applications for rehearing and raised in the oral argument, and after further examination of the issues by the Commission we herein modify in part, and clarify the form and interpretations of Opinion No. 770.

Footnotes at end of document.

First, we reaffirm that the rate of \$1.42 per Mcf, with a one cent per quarter escalator commencing October 1, 1976, is just and reasonable for sales of natural gas from wells commenced on or after January 1, 1975.

Secondly, we modify the \$1.01 per Mcf rate established for natural gas from wells commenced during the 1973-1974 biennium to \$0.93 per Mcf, with a one cent per annum escalator in each calendar year. We herein recognize that our treatment of liquids in Opinion No. 770, that being the continuance of a liquid credit as in Opinion No. 699-H rather than allocating joint costs to liquids and natural gas on a modified Btu basis, was incorrect. Furthermore, we now incorporate an escalator into the price-setting calculus. We have reconsidered our use of vintaging and have reluctantly concluded that the Commission's previous goal of a single price for all gas must be set aside for equity reasons in this period of rapidly rising costs.

Thirdly, we clarify the interpretation of what gas is eligible for the various rates we have set. While our intent and the ordering paragraphs in Opinion No. 770 were specific in limiting the 1973-74 and 1975-76 biennium prices to gas where "[t]he sale is made from a well or wells commenced on or after January 1, 1975" (emphasis added), producers have erroneously employed a prior interpretation of this language by the Commission under Opinion No. 699-H. That interpretation permitted recompletions in known reservoirs in existing wells to receive the then-applicable national rate.

While we do not question the judgment of our predecessors, we find that there is no cost-based rationale for permitting such recompletions to receive the national rates in effect at the time of their performance. The \$1.42 rate is fully cost-justified as is the \$0.93 rate. We now specify that all gas produced from wells commenced on or after January 1, 1973, shall be priced at the applicable national rate at their commencement ("spud-in") date, regardless of the date of completion or recompletion. Furthermore, any gas from recompletions in wells commenced prior to January 1, 1973, shall receive the rate of 52 cents per Mcf, with the one cent per annum escalator, established in Opinion No. 699-H.

The producer filings following the issuance of Opinion No. 770 and the subsequent PGA filings by pipelines confirm that a significant number of those filings involve gas from recompletions performed during the 1973-74 and 1975-76 bienniums. The national rates of \$1.42 and \$0.93 per Mcf will not be permitted for gas from these recompletions and refunds are ordered herein.

This Opinion on Rehearing also contains numerous other modifications, clarifications, and extensions of lesser import.

Finally, there is the issue of impact. We initially estimated the dollar impact of Opinion No. 770 on flowing and forthcoming gas to be \$1.52 billion over the next twelve months. This estimate, contained in a staff report appended to Opinion No. 770, was based upon incomplete data. Under the Commission's regulations, producers are required to file new contracts only, and to file for subsequent rate increases when they are first eligible under their contracts for the new rates. Once eligibility has been established, additional new wells or recompletions need not be reported to the Commission. While staff made some ad hoc adjustments in rate filing data obtained over the past two years, attempting to adjust for the unknown volumes, the resultant estimates were low when compared to the actual producer and pipeline filings under Opinion No. 770.

As indicated earlier, a large number of filings included gas from recompletions that did not qualify for the new rates established herein. Thus, the filed volumes must be adjusted to reestimate the impact. While the original estimated volume was 1.6 Tcf for the period from January 1, 1973 to July 26, 1976, the filings under Opinion No. 770 (adjusted for small producers not required to file and pipeline-owned production) amount to approximately 2.9 Tcf, nearly double the original estimate. Removing recompletions from the filed data to conform to our original intent and scaling to conform to the purchased gas adjustment (PGA) filing total reduces the affected volumes of flowing gas to between 2.0 and 2.3 Tcf.

PGA filings, which include all categories of gas, indicate an original Opinion No. 770 impact of \$2.042 billion, exclusive of inter-pipeline transactions. Adjusting the PGA filing dollar impact for our estimates of recompletions now excluded reduces that impact to between \$1.37 and \$1.61 billion.

Further adjusting to reflect the reduction from \$1.01 to \$0.93 for the 1973-74 gas reduces the impact of flowing gas to between \$1.26 and \$1.49 billion.

Finally, allowing for new gas dedications over the next 12 months at their recent historic rate of dedication adds \$0.23 to \$0.29 billion to the impact for a total of between \$1.49 and \$1.78 billion.

Spread over approximately 11.5 Tcf of total estimated domestic interstate supplies over the next 12 months, this amounts to about 13¢ and 15.5¢ per Mcf increase in price, which would increase residential rates between 6.5 and 7.7

percent if spread uniformly across all gas users. This, of course, is an average, and individual pipelines will be more or less affected depending on their supply sources.

In our assessment of the economic impact of this order, we do not go beyond the limits of our opinion to include such matters as:

—Actions of state regulatory commissions in raising other gas prices subject to their jurisdiction and not ours.

—Actions of state regulatory commissions in raising distribution costs which are under their jurisdiction and not ours.

The savings to current non-consumers of gas from the expected increased availability of gas resulting from this opinion. Such persons would thus have available fuel that is more economical than the alternative fuels they would otherwise have to use.

—The fact that in many states intrastate gas sales not subject to our jurisdiction are governed by the so-called "most favored nation" clauses tying those prices to the FPC prices. Since 1961, this Commission has refused to accept those types of clauses in interstate sales contracts. —We looked at, but did not factor into our cost calculations, the information that alternative sources of energy are in all cases higher than the price herein established:

(a) Canadian gas—\$1.94 per Mcf on January 1, 1977.

(b) No. 2 distillate average price—\$1.57 per Mcf equivalent.

(c) Intrastate average price—\$1.59 per Mcf.

We remain firmly convinced that the net impact of this decision is to benefit energy consumers by fostering the development of additional supplies of still relatively inexpensive natural gas.

B. THE USE OF RULEMAKING TO ESTABLISH JUST AND REASONABLE NATIONAL RATES

In its application for rehearing, the American Public Gas Association, et al. (APGA) argues that the Commission has no legal authority to set nationwide rates for producer sales of natural gas in an informal rulemaking proceeding. APGA further argues that it has been denied its procedural rights guaranteed by both the Natural Gas Act and the due process clause of the Fifth Amendment to the United States Constitution. These arguments are identical to those espoused by APGA with respect to the rates established in Opinion No. 699, et al.⁹ which were rejected in *Shell Oil Company v. F.P.C.*, 520 F.2d 1061, (5th Cir. 1975), cert. denied sub nom., *California Co., et al. v. F.P.C.*, 44 U.S.L.W. 3716 (June 14, 1976).

The Public Service Commission of the State of New York (PSCNY), in its petition for rehearing, made a more limited challenge to the Commission's use of informal rulemaking procedures. PSCNY suggested the use of a conference or oral argument, in addition to the informal proceedings utilized, to assist the Commission in its analysis of the facts underlying the productivity issue. In view

Footnotes at end of document.

of the whole factual record here before the Commission, we find it unnecessary to adopt this suggestion. In addition to the comprehensive documentary materials now before us, the Commission afforded two days of oral argument conducted on September 16 and 17, 1976.⁹

Opinion No. 770 was issued by the Commission only after a lengthy and comprehensive rulemaking proceeding. It was initiated on December 4, 1974, with an Order Instituting National Rate Proceeding,⁷ issued pursuant to the Administrative Procedure Act⁸ and the Natural Gas Act.⁹ The initiating order did not propose any specific rates, terms or revisions, but stated that it would rely upon the responses filed by the various parties and the staff as the basis for modifying the rate structure established by the first national rate proceeding in Opinion Nos. 699 and 699-H.

All large natural gas producers and interstate pipeline companies were made respondents to the proceeding, and all parties desiring to participate were invited to submit written comments. Initial comments were received from various parties. On August 4, 1975 and March 23, 1976, the Commission issued notices setting forth rate recommendations of the Bureau of Natural Gas (BNG) and the Office of Economics (OEC),¹⁰ and provided parties the opportunity to file comments in reply to staff's recommendations. Reply comments were received from a number of parties representing a broad range of consumer and gas industry interests. Finally, after the issuance of Opinion No. 770, the Commission heard oral argument on the issues raised by the parties in the applications for rehearing.¹¹

The assertions made by APGA that the Commission may not lawfully establish just and reasonable rates without formal adjudicatory hearings, oral testimony and oral cross-examination are contrary to established and controlling precedent.¹²

In addition to the Fifth Circuit's holding in *Shell*, supra, the United States Courts of Appeals for the District of Columbia Circuit and the Tenth Circuit have affirmed that the Commission need not use the formal hearing procedures of Sections 7 and 8 of the Administrative Procedure Act (5 U.S.C. §§ 556, 557) in establishing rates under the Natural Gas Act. *American Public Gas Association, et al. v. F.P.C.*, 162 U.S. App. D.C. 176, 498 F.2d 718 (D.C. Cir. 1974); *Mobil Oil Corp. v. F.P.C.*, 157 U.S. App. D.C. 235, 247-248, 483 F.2d 1238, 1250-1251 (D.C. 1973); *Phillips Petroleum Co. v. F.P.C.*, 475 F.2d 842, 851-852 (10th Cir. 1973). The Supreme Court has held that the absence of language in the underlying substantive statute which compels that rules be made "on the record after opportunity for an agency hearing" is a strong indication that Congress did not intend to mandate the formal procedures of Sections 556 and 557. *United States v. Florida East Coast Ry.*, 410 U.S. 224 (1973); *United States v. Allegheny-Ludlum Steel Corp.*, 406 U.S. 742 (1972).

Furthermore, the "substantial evidence" requirement of the Natural Gas

Act does not require that the formal procedures of Sections 556 and 557 be followed in a ratemaking proceeding. This was made clear in *Mobil Oil Corp. v. F.P.C.*, supra, where the Court found that "such complete adjudicatory procedures are not required." 154 U.S. App. D.C. at 259, 483 F.2d at 1262. Nor does Section 1.20 of the Commission's Rules of Practice and Procedure provide any support for APGA's position. Section 1.20(m) provides for the same informal proceedings under 5 U.S.C. § 553 which were followed in this proceeding.

APGA's contention that it has been denied its due process rights under the Fifth Amendment is without merit. Constitutional due process "is flexible and calls for such procedural protections as the particular situation demands." *Morrissey v. Brewer*, 408 U.S. 471, 481. This was made clear by the Court of Appeals for the District of Columbia Circuit with respect to Commission ratemaking where the Court stated:

Whatever procedure is utilized, a primary objective is the acquisition of information which will enable the Commission to carry out effectively the provisions of the Natural Gas Act. The ability to choose with relative freedom the procedure it will use to acquire relevant information gives the Commission power to realistically tailor the proceedings to fit the issues before it, the information it needs to illuminate those issues and the manner of presentation which, in its judgment, will bring before it the relevant information in the most efficient manner. *City of Chicago v. F.P.C.*, 458 F.2d 731, 743-44 (D.C. Cir. 1971), cert. denied, 405 U.S. 1074 (1972).

The rulemaking procedures in this proceeding were the same as those used in Docket No. R-389-B, which were upheld by the Court in *Shell Oil Co. v. F.P.C.*, supra, where the Court found:

The procedures before us serve the purpose of providing the Commission with essential information, while protecting the procedural rights of concerned parties under the circumstances. Private parties were afforded ample opportunity to make their case and to challenge both internally and externally generated evidence of costs and conditions which affected the calculus of a national rate for new gas. Were the Commission to have allowed all interested parties to submit oral testimony and conduct oral cross-examination on an undertaking so massive and novel as setting a national rate for new gas, the proceeding would have taken years, and the Commission's power to effectively regulate the industry would have been destroyed. (520 F.2d 1075 (1975).)

The procedural flexibility that is available to this Commission through such rulemaking procedures is an invaluable tool of effective and expeditious regulation. These procedures have been successfully used in the past and have been repeatedly upheld on review. For these reasons, we find that APGA's argument is unsound and is hereby rejected.

C. RATE STRUCTURE

1. *Applicability of the rates.* In Opinion No. 770, we concluded that the \$1.42 base national rate established for 1975-1976 biennium gas should be made applicable where:

(i) The sale is made from a well or wells commenced on or after January 1, 1975;

(ii) The sale is made pursuant to a contract for the sale of natural gas in interstate commerce for gas not previously sold in interstate commerce prior to January 1, 1975, except pursuant to the provisions of 18 C.F.R. §§ 2.68, 2.70, 157.22, or 157.29 (including sales made pursuant to those sections as modified by Federal Power Commission Order No. 491, et al.), or 18 C.F.R. § 2.75(n), where such a sale is initiated on or after January 1, 1975, provided that no certificate for the subject sale has been issued under the optional procedure (18 C.F.R. § 2.75).¹²

Similarly, we concluded that it was necessary to establish a base national rate for 1973-1974 biennium gas that would be applicable where:

(i) The sale is made from a well or wells commenced on or after January 1, 1973, and prior to January 1, 1975;

(ii) The sale is made pursuant to a contract for the sale of natural gas in interstate commerce for gas not previously sold in interstate commerce prior to January 1, 1973, except pursuant to the provisions of 18 C.F.R. §§ 2.68, 2.70, 157.22, or 157.29 (including sales made pursuant to those sections as modified by Federal Power Commission Order No. 491, et al.), or 18 C.F.R. § 2.75(n), where such a sale is initiated on or after January 1, 1973 and prior to January 1, 1975 provided that no certificate for the subject sale has been issued under the optional procedure (18 C.F.R. § 2.75).¹³

APGA, in its application for rehearing, argues that gas dedicated to the interstate market between January 1, 1975, the initial applicable date of Opinion No. 770, and July 27, 1976, the effective date of Opinion No. 770, should not be eligible for the \$1.42 per Mcf rate established therein. APGA further argues that allowing gas not previously sold in the interstate market prior to January 1, 1975, where such an interstate sale is initiated on or after January 1, 1975, to obtain the \$1.42 per Mcf rate is unlawful.¹⁴ Therefore, APGA concludes that the rates established in this proceeding should apply only to wells commenced on or after July 27, 1976.

The contention of APGA that qualifying gas dedicated prior to July 27, 1976 "does not cost \$1.42 to produce" is contrary to the evidence, which clearly shows that just the opposite is true. Those producers that have drilled wells and dedicated gas therefrom between January 1, 1975 and July 27, 1976, did so with knowledge of the Commission's previously announced intention to establish new, cost-based rates for such gas, and thus in anticipation of a rate commensurate with the higher costs incurred since January 1, 1975. Receipt of revenues from such a rate has already been delayed (and thus forever denied) for over 18 months of the period to which the rate should have applied. To deny those producers the just and reasonable cost-based rate henceforth would be in

violation of the Natural Gas Act and thus contrary to the overall public interest.

Upon further consideration of APGA's suggestion to preclude new dedications of gas previously sold in the intrastate market from receiving the \$1.42 rate, we are now in agreement that this rate would probably tend to serve only as a floor price for the intrastate market, rather than attracting gas previously sold in the intrastate market to the interstate market.

The underlying intention of the Commission, in permitting "new dedications" to qualify for the national rates in Opinion Nos. 699 and 770, was to use the higher rates to elicit for the interstate market those intrastate gas supplies being sold for rates below \$.52 and \$1.42 per Mcf, respectively. However, we know of no evidence since the issuance of Opinion No. 699 that the allowance of the national rates for this class of production has resulted in any significant dedication to the interstate market of gas previously sold intrastate.

Furthermore, it would be fundamentally inconsistent with cost-based pricing to permit lower cost gas to receive higher cost-based rates. At the same time, this new policy will permit any gas previously sold in the intrastate market to be sold in the interstate market at the \$.93 or \$1.42 levels, providing that the wells from which such gas is produced comport with the well commencement date criteria specified herein. Similarly, with respect to natural gas from reservoirs not previously dedicated to either the interstate market or the intrastate market, the well commencement date will be the only criterion considered in determining whether sales qualify for the \$1.42 and \$.93 rates prescribed herein. As to those wells drilled prior to January 1, 1973, but first dedicated to interstate commerce after that date, natural gas therefrom will continue to be priced at the 52 cent rate, with a one cent per annum escalator, as set forth in 18 CFR § 2.56a(a)(5) and (6). As to those wells drilled on or after January 1, 1973, and prior to January 1, 1975, but first dedicated to interstate commerce after January 1, 1975, natural gas therefrom will be priced at the \$.93 rate, with a one cent per annum escalator, as set forth in 18 CFR § 2.56a(a)(3) and (4). Under Opinion No. 770, such gas would have qualified for higher rates under the "first dedication" classification.¹⁵ However, to assure cost-based rate consistency, we have determined that the well commencement date should be the sole qualifying criterion.

Accordingly, we concur with APGA and modify § 2.56a of the Commission's regulations by deleting paragraphs (a)(1)(ii) and (3)(ii), which allowed sales "made pursuant to a contract for the sale of natural gas in interstate commerce for gas not previously sold in interstate commerce" to qualify for the new rates. Hereafter, only the well commencement date will be controlling in determining whether any sale qualifies for either the \$1.42 or \$.93 rates.

2. *Effective date.* In its application for rehearing and in oral argument, Moun-

tain Fuel Supply Company (Mountain Fuel) argues that the Commission has denied Mountain Fuel its rights to procedural and substantive due process of law, contrary to the Fifth Amendment of the United States Constitution, by ordering that the rates established in Opinion No. 770 were to take effect upon the issuance of said order. This position was also set forth by the State of Utah in its oral argument. We disagree.

Under section 553(d) of the Administrative Procedure Act, in a rulemaking proceeding "the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except: * * * (3) as otherwise provided by the agency for good cause found and published with the rule (emphasis added). Similarly, under § 1.19 of the Commission's rules of practice and procedure, in a rulemaking proceeding "[b]efore the adoption of any rule of general applicability * * * the Commission will cause general notice to be given by publication in the FEDERAL REGISTER, such notice to be published therein not less than 15 days prior to the date fixed for the consideration of the adoption of a proposed rule * * * Provided, however, That (1) Where the Commission, for good cause, finds it impractical, unnecessary, or contrary to the public interest to give such notice, it may proceed with the adoption of rules without notice by incorporating therein a finding to such effect and a concise statement of the reasons therefor".

In Opinion No. 770 at page 145, the Commission found that "[g]ood cause exists that the revisions adopted herein become effective upon issuance of this order". The underlying reasons necessitating the immediate effectiveness of the rates prescribed therein were very explicit. The evidence in this proceeding showed that the new gas rate established in Opinion No. 770 was the just and reasonable rate for over one and one-half years before July 27, 1976, the effective date of the Opinion.¹⁶ In light of the pervasive natural gas shortage, increased exploration, development and dedication of new natural gas supplies for the interstate market is needed immediately.¹⁷ Furthermore, the July 27, 1976 effective date was necessary to assure that producers would receive the rate of return determined to be just and reasonable from the date that determination was made.¹⁸ This is doubly important since depletion allowance was repealed for regulated producers effective July 1, 1976.

It should be noted that the Commission in past area rate and the national rate proceedings had made the rates established therein effective upon the issuance of the opinions. The effective date for the rates established in Opinion Nos. 699 and 699-H was the date of issuance of Opinion No. 699. This determination was upheld by the Court in *Shell Oil Co. v FPC*, supra. More recently, in Opinion No. 749, the rates established therein were made effective on the day following the date of the issuance of the order.

This issue of a 30-day notice requirement has been specifically addressed by

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the Courts of Appeals for both the District of Columbia and Fifth Circuits. In *Buckeye Cablevision, Inc. v FCC*, 387 F.2d 220, 228, n. 34 (D.C. Cir. 1967), the Court stated:

We also reject Buckeye's claim that the FCC lacked sufficient "good cause" to make the rule effective on March 17, the day of publication in the FEDERAL REGISTER, rather than waiting the full 30 days normally required by the Administrative Procedure Act, 5 U.S.C.A. § 553(d) (1966).²⁰

Later in *Clay Broadcasting Corp. of Texas v U.S.*, 464 F.2d 1313, 1320 (5th Cir. 1972), the Court made reference to the FCC's decision to make certain fees effective prior to the expiration of the 30-day notice period. There the Court found "that the Commission's statement of 'good cause' sufficiently meets the requirements of both the Administrative Procedure Act and the Commission's rules."

In Opinion No. 770, we determined that the July 27, 1976 effective date was necessary to assure that producers will receive the rates which this Commission has found to be just and reasonable. There is an abundance of evidence in the record and in the opinion to support this decision. For these reasons and those set forth in Opinion No. 770, we reject this argument made by Mountain Fuel.

3. *Expiring contracts.* In Opinion No. 770, we determined that the \$1.01 rate for the 1973-1974 biennium gas and the \$1.42 rate for post-December 31, 1974 gas would not apply to sales made pursuant to a replacement contract, irrespective of the expiration date of the prior contract, where the sales were formerly made pursuant to permanent certificates of unlimited duration, and the prior contract expired by its own terms.²¹ We further determined that such sales would continue to be governed by the rate level, including appropriate annual escalations, prescribed in Opinion No. 699-H.

Comments have been received from APGA and NYPSC objecting to the continuance of the Opinion No. 699-H policy permitting "flowing gas" from expiring contracts to be repriced at the 52 cent level. They argue that the Commission's decision in Opinion No. 770 to continue vintaging, and that the price structure established in Opinion No. 749 for flowing gas, serve to eliminate any underlying reason for continuing the repricing policy.

The Indicated Producer Respondents (IPR), Austral Oil Company, Inc. (Austral), Aztec Oil and Gas Company (Aztec) and Belco Petroleum Corporation (Belco), on the other hand, argue that the Commission should not have reinstituted its vintaging policy, and that renewal contracts should be permitted to increase to the \$1.42 level established in Opinion No. 770.

First, with respect to the suggestion of APGA and NYPSC that the Commission's repricing policy for flowing gas be abandoned, we restate and adopt the Commission's intention in Opinion Nos. 699, et seq., to apply such rates functionally in order to assist in the generation

of sufficient capital for expanded exploration and development programs.

The extent of the capital needs of the industry can be estimated using the cost data employed herein. If the natural gas producers were to maintain the approximately 12 Tcf of gas flowing in interstate commerce each year, approximately .8 Tcf ($\frac{1}{15}$ of 12 Tcf) would have to be added to the productive capacity in each year to offset declining production from existing wells. In Exhibit 4, infra, we indicate that a net cash outflow of 25.78¢ (91 percent of 28.33¢) per Mcf is necessary to produce $\frac{1}{15}$ Mcf per year for the next 15 years. Thus, in order to add productive capacity of .8 Tcf approximately \$3.1 billion dollars must be expended annually (in 1975 dollars). Added to this amount of capital needs is the interest on any debt, the dividends on preferred and common equity, and any debt repayment. The total would approximate \$3.5 billion per year without considering inflationary effects.

The rates prescribed in Opinion No. 770 for post-December 31, 1974 gas and 1973-1974 biennium gas will provide part of the capital necessary to help alleviate the present natural gas shortage, and it is only fair that consumers of "flowing gas" share the burden of financing the added exploration. This equitable principle was made quite clear in *Placid Oil Co. v FPC*, 483 F. 2d 880 (5th Cir. 1973), aff'd sub nom. *Mobil Oil Corp. v FPC*, 417 U.S. 283 (1974) where Judge Brown stated:

But if—and this can be no if—rates for so-called "new" gas must carry an increment to enable the continued resupply of this depleting commodity, this "old" gas, indistinguishable molecularly, must carry this burden like an added atom in its carbon ring. Cf. *Ziegler v Phillips Petroleum Co.*, 5th Cir., 1973, 483 F. 2d 858. (483 F. 2d at 899-900.)

It must also be remembered that a producer, whose contract with a pipeline-purchaser has expired, will presumably have to bargain for a replacement contract in order to be eligible for the higher rate. In *United Gas Pipe Line Co. v Mobile Gas Service Corp.*, 350 U.S. 332 (1956), the Court indicated that there must be a contractual basis for a seller to be entitled to a higher price. Therefore, a seller of gas under a contract that had expired of its own terms would not be eligible for the 52 cent rate unless the replacement contract entitled it to such a rate. It is for this reason that no automatic increase to the 52 cent rate will be allowed upon expiration of the primary term of the effective contract. The producer whose contract has expired thus has an obligation to bargain in good faith with the purchaser for a new contract. In many cases the purchasing pipeline may desire a quid pro quo from the selling producer in the form of additional acreage dedication, exploration and development activity on the previously dedicated acreage, or other similar activities that could result in the dedication of additional new gas supplies to the interstate market.

In Opinion No. 770, we established a complete rate structure to compensate

producers for the higher costs incurred since 1973, and to provide the capital necessary for additional exploratory and developmental activity. The same type of rate structure in Opinion No. 699-H was upheld by the Fifth Circuit in *Shell Oil Co. v FPC*, supra, where the Court stated:

The FPC has reached a well-considered, expert decision on this issue. The Commission found from evidence in the record that a massive commitment of new funds is necessary to alleviate the natural gas shortage and that internally generated sums are a necessary source of such funds. (520 F.2d at 1077.)

With respect to the arguments of IPR, Austral, Aztec, and Belco that renewal contracts should be permitted to increase to the \$1.42 level, we have determined, that such a policy would result in an unreasonable rate increase and, therefore, would be contrary to the public interest. However, by permitting expiring contracts to increase to the Opinion No. 699-H rate, an unreasonably large increase in rates is avoided while additional revenues are provided for expanded exploration and development.

In Opinion No. 749, the Commission determined that 29.5 cents per Mcf was a just and reasonable rate for gas flowing in interstate commerce prior to 1973. Included in that rate was a 6 cent allowance for increased taxes due to the repeal of percentage depletion. Therefore, no further allowance for increased taxes is necessary in the previously determined Opinion No. 699-H rates for expiring contracts.

The dissenting statement to Opinion No. 770 on noncost factors suggests that the E&D element in flowing gas revenue from the rates set in Opinion No. 749 should also be considered. We cannot agree with the dissent on this latter point.

The Permian costing methodology employed for flowing gas in Opinion No. 749 uses current E&D expenditures as a proxy for the previous E&D expenditures associated with the gas currently flowing. Thus, the inclusion of current E&D costs in the flowing gas cost determination is not an allowance for current E&D, but, instead, is an allowance for recovery of past E&D. As pointed out by UDC in their petition for rehearing, the Commission was perfectly clear about this in Opinion No. 749 at pages 21 and 22 where it stated:

The function of the exploration and development allowance in flowing gas rates is to assign to flowing gas those exploration and development costs which should be recovered by flowing gas volumes. The amounts which should be so assigned are determined by using exploration and development costs for the test year as a proxy for the exploration and development expenditures to be recovered in the computed costs . . . The proper function of rates for flowing gas is to recover all costs properly attributable to flowing gas volumes and . . . [t]he rates prescribed in Opinion No. 699-H and to be prescribed in subsequent biennial reviews are and will include exploration and development allowances to recover these current and expected future exploration and development costs. (emphasis added)

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Thus, it is erroneous to argue that there is an E&D allowance in the flowing gas rate established in Opinion No. 749 that should be considered in the rates for this biennium. The Commission went on to state that the complete segregation of E&D expenditures is an example of Judge Leventhal's "demand-[ing] the perfect at the expense of the achievable". 487 F.2d 1043, 1067. There is no proof offered in the dissent to support the contention that "[t]he 1972 levels of expenditures undoubtedly are greater than the average E&D expense associated with all flowing gas" and that "[t]he excess (after taxes) is intended to contribute and will contribute capital for new gas development."

It is also apparent that there is still some misunderstanding concerning what constitutes a termination of the base contract for vintaging purposes. The Commission has consistently required that the base contract must run its full "primary term" before the expiring contract can "rollover", and thus qualify under a replacement contract for the 52 cent rate prescribed in Opinion No. 770. By "primary term", we mean the actual term of years specified in the base contract, and not as the base contract may be affected by a premature termination provision contained therein (i.e., due to declining pressure or other physical conditions of the sale). Where a producer claims that its base contract has prematurely terminated, it must utilize the available special relief procedures in order to receive a higher rate, since these situations do not fall within the scope of the vintaging concepts first enunciated in Opinion No. 639 and later incorporated in Opinion No. 699-H.

Finally, several parties in their applications for rehearing have questioned whether any discernible benefit to the consumer has resulted due to the Commission's "rollover" policy in Opinion No. 699-H, as continued in Opinion No. 770. Without any mechanism to ensure that such additional funds are expended for increased drilling activity, they argue that the "rollover" treatment should be discontinued.

It was the expressed hope of the Commission in Opinion No. 699 that the allowance of the new rate for replacement contracts would provide additional revenues for expanded exploration and development programs. This rationale was specifically upheld on appeal,²² but the Court did rely, *inter alia*, for its finding on the representation in Opinion No. 699-H that:

[R]ates will not be allowed to increase indefinitely without some discernible increase in the level of monies committed to exploration and development programs and the volumes of new gas supplies dedicated to interstate pipelines under long term contracts.²³

The reserve additions and footage drilled in 1975, increased approximately 8% from 1974.²⁴ In view of the inadequacy of the national rate established in Opinion No. 699-H (see discussion *infra*), the "rollover" treatment therein

undoubtedly provided part of the necessary capital for such drilling activities. While certain informational forms have been proposed by the Commission that would facilitate the gathering of data which would indicate the success of the "rollover" policy, we cannot precisely quantify its effect herein. The substantial amount of money involved in continuing "rollover" treatment, the arguments of certain parties in this proceeding, and the judicial admonition of *Shell Oil Co. v FPC*, supra, now lead us to conclude that some program must be undertaken to ensure that the consumer receives a real and recognizable benefit for the increase in flowing gas prices permitted under our "rollover" policy.

There are several indicators to which we could look to ascertain if producers are utilizing the additional revenues received from "rollover" contracts for increased exploration and development activities and additional long-term dedication to the interstate market. The Commission presently has an information form that will assist its inquiries. From Form No. 64²⁵ we will learn the amounts a company has spent on exploration and development. We recognize that this data gathering procedure is subject to current court review, and that the data therefrom will not be immediately available to judge the efficacy of the rollover program. Should Form No. 64 ultimately be rejected by the Court on review, the Commission will require the submission of data by producers indicating the expenditures made for exploration and development activities.

Besides Form No. 64, indications of increased exploration and development, on a nationwide basis, can be gleaned from the American Petroleum Institute statistics on annual gas well footage drilled. All of this data will aid our overall review of rollover rate increases to determine whether, in return for the higher revenues derived, sellers supply the consumers with just compensation in the form of increased exploration and development activities and long-term dedication of reserves to the interstate market. In this manner the Commission will provide producers with necessary capital while protecting the interests of the consumer as well. To the extent that consideration does not flow appropriately between producers and consumers, the Commission will take whatever steps are required to safeguard the consuming public. It is " * * * well within Commission discretion and expertise * * * " to do so. *Mobil Oil Corp. v FPC*, supra, 317-8.

Accordingly, we will continue the policy of the Commission in Opinion No. 699-H, as upheld by the Court in *Shell Oil Co. v FPC*, supra, and permit expiring contracts to be repriced at the 52 cent per Mcf rate, escalating at one cent per annum.

This will balance the need for additional supplies of gas with the cost to consumers for developing such supplies. The Supreme Court has recognized that the public interest embraces adequate supply as well as the lowest reasonable

price. *Mobil Oil Corp. v FPC*, 417 U.S. 283 (1974). By permitting lower-priced gas to rise to the 52 cent level, we encourage the reworking of these lower-priced wells and avoid the substitution of higher-priced gas (i.e. \$1.42 per Mcf) when older gas wells are no longer economically producible at the rates prescribed in Opinion No. 749. Also, the one cent per annum escalator will help insulate the rate established from the erosion of future inflation. In addition, the rate increase provides a proportional amount of the additional capital needed for new exploration and development of new gas supplies. The "bargained-for" rate increase could also result in additional acreage dedication to the pipeline purchasers. Therefore, we believe that this rate increase to the 52 cent level is in the public interest.

4. *Unlimited term contracts.* IPR, Austral and Aztec in their applications and in oral argument raise an issue not discussed in Opinion No. 770, whether the 52 cent "expiring contract" rate should apply to sales made pursuant to permanent certificates of unlimited duration, where the original contract was of an indefinite duration, and under which sales have been made for a period of at least 20 years.

We decline to make the modification urged by IPR, Austral and Aztec. The suggestion made here, while distinguishable, is not unlike that made by Superior Oil Company, during our consideration of Opinion No. 699, et seq., that the national rate be allowed for sales of natural gas where the term of the prior contract has expired and no renewal contract has been executed. There the Commission said (Opinion No. 699-H, mimeo pp. 42-43):

The automatic allowance of the national rate upon expiration of the formerly effective contract would release the seller from any obligation to bargain in good faith with the purchaser for a new contract, and such a situation would be contrary to the public interest. In many cases, the purchasing pipeline may desire a *quid pro quo* from the selling producer in the form of additional acreage dedication, exploration and development activity on the previously dedicated acreage or other similar activities that could result in the dedication of additional new gas supplies to the interstate market. Such concessions by the seller will certainly not be made if the price is allowed to increase to the national rate automatically without the requirement of a renewal contract. Since such concessions are in the public interest because of the need for additional gas supplies which can be dedicated to interstate pipelines, it would be untenable to force the purchasing pipeline to pay the increased rate without the opportunity to obtain additional benefits for itself and its customers.

While Superior attacked this holding on appeal, the Court found that "[t]he FPC has reached a well considered, expert decision on this issue" (*Shell Oil Company v FPC*, supra, 520 F.2d at 1077). Moreover, the Supreme Court denied Superior's petition for a writ of certiorari on this issue (*California Co. v FPC*, supra, 44 U.S.L.W. 3716 (June 14, 1976)).

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In Opinion No. 699, et seq., the Commission determined that a renewal contract should be a condition precedent of the new national rate because of the possibility that the pipeline might be able to bargain for additional acreage dedication, increase exploration and development activity, or other concessions for the rate increase. While the opportunity for bargaining is a relative certainty with respect to expiring contracts, this certainty does not exist with respect to unlimited term contracts. Many unlimited term contracts now in effect contain provisions which would contractually entitle the producers to raise their rates to the national rate, if the Commission permitted.²⁸ Such contracts offer no opportunity for bargaining by the pipeline. Therefore, there is no corresponding benefit to the consumer which would justify our granting increases to the Opinion No. 699 level for such sales.

We see no unfairness in holding producers to their bargains. Aztec and Austral cite a statement in Order No. 539-B²⁹ that "certificate conditions, and the incidents of service which it represents, are superior to any limitation on Commission authority contained in the contract" (Austral, p. 8). But the Commission added:

Where, however, the contract provisions include greater responsibilities and obligations than those imposed by the certificates, such as a warranty of delivery agreement, the producer, of course, will be held accountable to those greater responsibilities. (Order No. 539-B, mimeo, p. 3.)

Pipelines and producers which entered into unlimited term contracts did so for the mutual advantage. The former to secure a constant source of supply and the latter to secure a market. Such supply stability was expressly recognized by the Supreme Court in *United Gas Pipeline Co. v. Mobile Gas Service Corp.*, supra, where the court stated:

By preserving the integrity of contracts, it permits the stability of supply arrangements which all agree is essential to the health of the natural gas industry. 350 U.S. at 344.

Thus, the "greater responsibilities and obligations"²⁸ undertaken by the producers have a corresponding benefit.

Finally, producers under unlimited term contracts (where contractually entitled thereto) have recently received the benefit of the new "flowing gas" rate.²⁹ We are not prepared to escalate that rate further in the absence of corresponding benefits for the consumer.

Accordingly, the arguments of IPR, Austral, and Aztec, to allow "unlimited term" contracts to qualify for a higher rate under this opinion, are hereby rejected.

II. DISCOUNTED CASH FLOW METHODOLOGY

In its application for rehearing, APGA criticizes the Commission's use of the discounted cash flow (DCF) methodology in Opinion No. 770 in lieu of the Permian costing methodology³⁰ used in various area rate proceedings. This criticism was expressly rejected by the Court in *Shell*

Oil Co. v. F.P.C., supra, when APGA attacked the DCF analysis used in Opinion No. 699-H.

Once again APGA fails to understand that the Permian methodology was a point of departure for the DCF cost analysis used herein.³¹ The Permian methodology was not "abandoned" but was supplemented by the DCF format. This was made clear in Opinion No. 699-H where the Commission stated:

We find that supplementary (DCF) cost analysis necessary to assure that the rate allowed for new gas supplies adequately reflects the true cost of those supplies. We believe that the Permian methodology adjusted by applying a DCF analysis to produce a true yield of 15 percent over the life of the investment and further tested by the use of trended drilling costs will establish a more reliable foundation for a predictive just and reasonable rate than will the exclusive use of the Permian methodology standing alone.³²

The DCF methodology focuses on anticipated cash flows over the life history of a well rather than on revenues and costs in any one year. Since the time value of money is one of the crucial factors in this analysis, judgments must be made concerning the timing of costs and revenues. The principal costs (or negative cash flows) were assumed to occur in the three-year pre-production period (denominated years -1, -2, and -3)³³ while negative cash flows (or cash expenditures) in the productive period (operating expenses, etc.) were assumed to vary proportionally with production. Projected revenues or positive cash flows were assumed to occur during the 15-year productive period (denominated years 0 through 14).³⁴

The present value of all positive and negative cash flows over the 18 year pre-production and production period was computed at the first year of production (year 0). Net investments (cash outflow) made during the three years prior to production were compounded annually at a 15 percent rate of return. Similarly, future revenues less annual expenses (cash inflow) were discounted by the same 15 percent rate of return. These computations based on the stated assumptions yielded the present value of investment as of the first year of production.

The DCF methodology is designed to determine the price required to yield a given rate of return over the life of the project. It recognizes the fact that there is a time value which can be placed upon capital and that cash flow must be at a level necessary to produce the required return. The DCF methodology also reflects the cost of capital by allowing a return on all invested funds. This was pointed out in Opinion No. 699-H as one of the reasons for this departure from the Permian methodology. There the Commission stated:

The Permian costing format requires that dry hole and exploration expenditures be expensed and recovered through production. The Permian formula is explicable only by an assumption that the dry hole allowance in the price of existing production in each year is in the aggregate sufficient to pay for or "expense" the total dry hole costs for that year. This assumption may or may not have

ever been correct for a given producer. However, such an assumption today is contrary to the public interest in two related respects. First, it provides a disincentive to existing producers to increase investment in exploration and development and to incur the concomitant dry hole expense. The perpetuation of such disincentives would frustrate the fundamental national goal of achieving a greater degree of energy self-sufficiency. Second, the assumption and, consequently, the methodology is discriminatory to new market entrants who have no flowing gas against which to "expense" the dry hole costs. Today, the price of each Mcf of new gas must fully reflect the cost of finding and producing that gas and we find that the Permian formula does not adequately achieve that goal. If the recovery of such funds is to be permitted only over the depletable life of the project, then a return must be allowed on these costs just as it is allowed for successful wells.

We believe that the record as a whole permits us to make reasonable assumptions as to the timing of expenditures. We also believe that the DCF analysis is necessary to make reasonably certain that the end result of a 15 percent return will be attained without the attrition inherent in the Permian methodology. We, therefore, find that the Permian methodology adjusted by the DCF analysis is the most reliable basis for determining a reasonable rate structure. Accordingly, the criticism of APGA with respect to the use of a DCF analysis is hereby rejected.

III. THE RATE DETERMINATION: POST-DECEMBER 31, 1974

In Opinion No. 770, the Commission established a rate of \$1.42 per Mcf, with a one cent per quarter escalator, as the just and reasonable rate for post-December 31, 1974 gas. This rate has been challenged as being both too high and too low as well as on several other grounds. Several parties argue that the rate is not cost-based and, therefore, is unlawful. IPR, UDC, and INGAA argue that the Commission understated several of the cost components, so that the price established for post-December 31, 1974 gas will not elicit adequate supplies of natural gas for the interstate market. The specific objections of various parties to the cost components in this rate determination are discussed below.

A. TIMING OF EXPENDITURES

In its Application for Rehearing, IPR contended that the Commission erred in not properly matching discounting to cash flows, thereby misstating the discounted cash flow equation used to determine the price. The Commission applied the formula accurately, for it assumed all cash flows would occur at the beginning of the stated periods. While IPR suggests the cash inflows be lagged one-half year to reflect their uniform flow throughout the year, they fail to point out that the cash outflows during the pre-production period were also assumed to occur at the beginning of their respective years. Thus, if the timing of the inflows is lagged, the timing of the outflows should be similarly lagged to reflect their uniform occurrence throughout the year. If both the inflows and out-

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flows are thus adjusted to reflect their continuous timing by lagging them to mid-year, there is no effect on the price calculations.³²

IPR also contends that the Commission erred in its specification of the timing of the cash outflows and the rationale for ascertaining that alternative timing schedules would have minimal impact. This contention has no validity. The Commission is attempting to price gas on a year-by-year basis, with the relevant gas in Opinion No. 770 being that from wells drilled or dedicated during the 1975-76 biennium. The assumed timing of cash flows is matched to data used for all the major cost elements. Successful Well, Dry Hole, Other Production Facilities and Other Exploration costs use time-related data explicitly; the Exploratory Overhead cost timing is waived as complex and de minimis. Only the lease acquisition element is not specifically time-related, because, as specified by the Commission,³³ the ratio of lease acquisition costs to successful well costs varies substantially from year-to-year. But with lease acquisition assumed to occur in time period (-2) and first production in time period 0, if 1975 and 1976 is deemed the first production years,³⁴ data for 1973 and 1974 are clearly relevant and were included in the ratio calculation.³⁵ The 1973-74 data would be inadmissible in the averaging process if their outlay was assumed to occur before time period -2. Thus, we are consistent and correct in arguing that if a longer period between lease acquisition and production were assumed the recent high lease costs would have to be deferred to be included in subsequent biennial reviews, and thus the lower cost component would tend to offset the time value of money associated with earlier outlay.

Furthermore, IPR is correct in stating that "[t]he simple fact is that the Commission did not use the only evidence in this record which shows that investment time lags are greater than those used by the Commission." We found that evidence to be contradictory and too narrowly based. It should be noted that the timing assumed in Opinion No. 770 is consistent with the staff recommendations and the UDC filing in Docket No. RM75-14. IPR offers the only exception.³⁶ Therefore, these arguments of IPR are rejected.

B. PRODUCTIVITY

In Opinion No. 770, the Commission employed an eight to nine year productivity zone of reasonableness and, within that range, selected a productivity factor of 300 Mcf per successful foot drilled to compute the denominator for each incremental cost calculation in the discounted cash flow (DCF) analysis. The productivity factor for a specified series of years is calculated by dividing the total non-

associated gas reserve additions during those years, as reported by the American Gas Association (AGA) by the total successful gas footage drilled during those years, as reported by the American Petroleum Institute (API), after appropriate testing.

The decision to use this productivity factor, however, has been attacked by various parties as being too high and too low. The Indicated Producer Respondents (IPR) assert that the productivity estimates based upon 8-year (1968-1975) and 9-year (1967-1975) averages did not adequately reflect the declining trend in productivity experienced since 1968. APGA, NYPSC, Senator Abourezk, et al.³⁷ (Congressmen), and the South Dakota Public Utilities Commission (SDPUC), on the other hand, assert that the underlying AGA and API data are inaccurate and should not be used, and that, at a minimum, a longer series of years should be averaged to compute the productivity factor.

More specifically, APGA, NYPSC, Congressmen and SDPUC argue, inter alia, that:

1. the AGA data has substantially understated the status of proved reserves;
2. the Commission has failed to make an independent examination of the AGA reserve data; and
3. the Commission must gather further evidence in an adjudicatory-type proceeding.

As support for their contentions, APGA, Congressmen and SDPUC cite the testimony of the former director of the Federal Trade Commission's Bureau of Competition (BOC), James Halverson, before the Antitrust and Monopoly Subcommittee, Senate Committee on the Judiciary, on June 23, 1973.³⁸ They also cite the testimony of the attorneys from BOC in hearings before the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, U.S. House of Representatives, in June and July of 1975.³⁹

In that testimony, the representatives of BOC stated that serious underreporting of natural gas reserves by the AGA had occurred. APGA further points out that a BOC Staff memorandum⁴⁰ recommended that a complaint be issued against the AGA and eleven natural gas producers. However, APGA and SDPUC neglected to mention that the Federal Trade Commission's Bureau of Economics (BOE) found that BOC's AGA investigation.⁴¹

... has unearthed no information in support of allegations that the post-1967 downturn in reserves is a statistical contrivance of the AGA and its producer members. Rather we feel that inferences of underreporting drawn from the Bureau of Competition's complaint memos are based on incorrect interpretations of the testimonial evidence and invalid statistical comparisons.⁴²

The Commission's Bureau of Natural Gas made a separate analysis of the available data underlying the BOC recommendations.⁴³ In its report, BNG stated:

- (1) One of the most critical errors in the BOC study is their insistence that the AGA and (FPC) Form 15 definitions of proved reserves are identical. This is incorrect. The Form 15 definition is less restrictive since it does not require that a reservoir be flow tested to be considered proved.

The BNG report further stated:

- (4) The BOC infers that their study is superior to the NGRS "because of their access to a limited number of AGA field work sheets and some company internal reserve estimates."

Actually there is little basis for the comparison between the NGRS and the BOC investigation. The BOC merely obtained the AGA field work sheets and company estimates for a relatively small area and did not make independent estimates or attempt to obtain and analyze the underlying data upon which the estimates were based.

In the NGRS, the field reserve teams actually obtained the basic geologic and engineering data for the 108 largest gas fields in the United States plus 50 smaller gas fields. Independent estimates for each of the fields were compared with the AGA estimates. On a national basis, the NGRS estimate was estimated to be less than the AGA estimate of total 1970 United States Gas reserves by about 10 percent. This indicates that for the United States as a whole the 1970 AGA reserve data was reasonably accurate.

As to the reserves in the Offshore Louisiana area, the BNG report explained that:

- (8) The BOC apparently did not consider information that could have vitally affected their conclusions. BOC witnesses in the June 9, 1975, hearings neglected to mention that they had obtained reserve estimates developed in the NGRS for 24 offshore Louisiana fields.

A comparison of the NGRS estimates with AGA estimates (which could have been performed by BOC personnel) shows that for the combined 24 fields, AGA reported 19.2 Tcf of proved reserves as of 12/31/70 while the NGRS indicated only 18.2 Tcf. Of the 24 fields AGA was "overreported" in 14 fields and "underreported" in 10 fields. It is interesting to note that these results tend to refute the witnesses' allegations that the AGA underreporting was more prevalent.

The above-mentioned BNG report, and the NGRS referenced therein, illustrate that the Commission has diligently examined the AGA data to assure its reasonableness, contrary to the assertions made by APGA, NYPSC, Congressmen and SDPUC.

APGA and Congressmen also compare the AGA data with reserve estimates prepared by the United States Geological Survey (USGS) for the Gulf of Mexico. Evidence of alleged underreporting was introduced before the House Subcommittee on Oversight and Investigations of the Committee on Interstate and For-

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eign Commerce on January 21, 1976, by a special assistant on the Staff of the Committee.⁴⁶

APGA and Congressmen⁴⁷ only made reference to this evidence but did not offer to place it into the record in this proceeding. Nevertheless, it should be noted that the Commission, in fact, did consider the reserve estimates of the USGS for the Gulf of Mexico. Included in the July 24, 1975 comments filed by UDC was Exhibit E of Appendix A, which set forth the independent reserve estimates of the USGS for the Gulf of Mexico.⁴⁸ In those comments Mr. Ogden presented his cost studies which "rely upon the experience on leases in fields for which the Geological Survey has supplied its reserve estimates in various aggregates." Using these reserve estimates, UDC supported the use of an overall productivity range of 290-300 Mcf per foot,⁴⁹ which is within the 279-323 Mcf per foot range utilized by the Commission.

While the USGS data is useful in augmenting the AGA data, it cannot be used for estimating productivity because it is not available as a time series. Thus, we do not know from the USGS data whether the alleged underreporting by AGA occurred in recent years or some earlier period. Our productivity calculations depend upon the accuracy of the year-to-year additions to reserves rather than on the accuracy of the reported level of reserves for a recent date.

It was the hope of the Commission when this proceeding was initiated that verified gas reserve and drilling data could be reported by natural gas companies on FPC Forms 40 and 64 for use in this proceeding. Such information would have been verified by the companies and would have been subject to audit by the Commission staff. On June 2, 1976, however, the United States Court of Appeals for the Ninth Circuit in *Union Oil Company of California, et al. v. FPC*, Nos. 75-2891, et al., set aside and remanded the Commission's Order Nos. 526 and 526-A, which required the filing of FPC Form 40 by all natural gas companies, for further Commission evaluation and explanation of the reporting requirements in light of the record. This matter is now pending before the Commission. With respect to the gathering of drilling and historical productivity data, the Commission issued Order Nos. 543 and 543-A,⁵⁰ requiring the filing of FPC Form 64. The effectiveness of these orders has also been temporarily stayed.⁵¹

Although the effectiveness of Forms 40 and 64 have been temporarily stayed, some 645 companies voluntarily filed Form 40 data for the calendar year 1974, while 225 companies filed such data for 1975. Over 200 companies filed Form 64 (although this data was not received until August, 1976, after the issuance of Opinion No. 770), of which only 115 replies were found to be even minimally acceptable for computer processing.⁵² In view of the Court's stay, compliance with requests to improve and adjust the data

is not feasible and the data obtained is not of a quality that would permit it to be useful in these proceedings.

Thus, we were faced with the choice of further delaying the issuance of the new national rate opinion until sufficient "in-house" data could be gathered and used in this proceeding, or proceeding with the AGA and API data as done in Opinion No. 699. We concluded that the judicious use of this data and the prompt issuance of Opinion No. 770 would be better than further delay.

The Commission has not simply accepted the AGA data without question. On June 13, 1975, the Commission instituted an investigation to update a prior staff study⁵³ which indicated a disparity of approximately 1.7 Tcf between gross additions to non-associated gas reserves reported by the AGA for the entire South Louisiana Area (including offshore) for the years 1971 and 1972, and non-associated gas reserves for 31 Offshore Louisiana leases purchased in December 1970, where reserve estimates were made by the FPC staff in the course of investigations of pipeline companies' certificate applications.

The staff determined that the nearest totals which might be comparable to the AGA ultimate reserves figure would be the total of staff's reserves and the total of the producers' reserves. However, there was no way of knowing if the reserves estimates of staff and the producers in the updated study were for exactly the same correlative fields and blocks as those reported in the AGA annual publication. To make the required comparison, the Commission determined that AGA data would be subpoenaed showing those fields considered to be 1971-1972 discoveries and its estimate of ultimate reserves of non-associated gas for these fields as of the end of 1974. To achieve this objective the Commission on February 25, 1976, directed the Secretary to issue subpoenas duces tecum to the President of the AGA and to four members of the AGA Committee on Natural Gas Reserves to provide certain specified information that would enable the staff to complete its investigation. On March 11, 1976, all five persons subpoenaed complied with the subpoenas and provided responses to the specifications. These responses were subsequently used as part of a staff report on the AGA data.

In reaching the decision to use the AGA data for the cost computations in Opinion No. 770, we relied in part on the above-mentioned "Staff Report On The Updated 31-Lease Investigation."⁵⁴ APGA, NYPSC, Congressmen and SDPUC correctly quote one of the conclusions of the staff report that "the total non-associated gas discovered in those two years [1971 and 1972] is not accurately reflected in the AGA publication," but they fail to mention the staff conclusion "that the estimates in total are reasonable."⁵⁵

While we have decided that the AGA reserve data provides a reasonable basis for estimating productivity, we are mindful of the staff recommendation that

"discretion should be used when utilizing the AGA published data to calculate gas well productivity." For this reason, we reject the objection of OPR that a shorter series of years should be averaged to compute the productivity factor. In accordance with the staff recommendations and consistent with the approach taken in area rate opinions and Opinion Nos. 699, et al., we determined that it was necessary to average the reserves discovered over a series of years to compensate for the inaccurate reporting of discoveries, the reporting variance between actual field discoveries and the inclusion of the field reserves in the annual AGA report.

Past area rate cases based productivity factors upon the average for the longest time series available. This policy was reasonable when reserve additions were relatively more stable than those recently experienced. However, as indicated by IPR, a significant downward trend in productivity has been experienced since 1968 which has necessitated a new approach in making the productivity calculation. This new approach was used by the Commission in Opinion No. 699, which was later upheld by the Court on review.⁵⁶

In pricing the 1975-76 biennium gas, the Commission found that a productivity range of 279 Mcf to 323 Mcf per foot drilled constituted a "zone of reasonableness." This range was derived from the averaging of reserve additions and successful gas well footage over eight-year (1968-1975) and nine-year (1967-1975) time periods. We believe that use of this range of years, like the range used in Opinion No. 699,⁵⁷ will compensate for reporting discrepancies, will partially reflect the recent trend of declining productivities, and will insure that the rate prescribed is sufficient to encourage the exploration and development of more marginal gas reserves. Accordingly, we reject both the suggestion of APGA and the dissent to Opinion No. 770 and this Opinion that a longer series of years be averaged to compute the productivity factor and the suggestion of IPR that a shorter series be used.

APGA, NYPSC, Congressmen and SDPUC also argue that the productivity calculation set forth in the dissent to Opinion No. 770 is more realistic than that used by the majority. The dissent suggested lagging the reserves added data for some period behind the drilling footage data to compensate for reporting lag and attribution errors made by the AGA.⁵⁸ The dissent contends that a one-year lag "should be sufficiently long to account for the average effect of the errors."⁵⁹ As support for that proposition, the dissent refers to the *Staff Report on the Updated 31-Lease Investigation* in which staff determined that five of the twenty-nine fields deemed discovered in 1971-1972 on the basis of producer data were not reported by the AGA as of the end of 1974. If these five fields were considered in a vacuum as representative of normal reporting lag, they would indicate a lag of at least 2-3 years, rather than the one year average suggested by the dis-

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sent. This one year average lag time is further repudiated by the Staff Report where staff also determined that four of the fields reported by the AGA as 1971-1972 discoveries were actually discovered in prior years, one as far back as 1965.⁶² This would indicate a reporting lag of 6-7 years for some discoveries.

On the other hand, the Staff Report notes that of the twenty-nine fields which were determined from producer data to be 1971-1972 discoveries, five were reported by the AGA to have been discovered in other years, one as far back as 1967.⁶³ This would indicate no reporting lag whatsoever for a portion of these reserves, but, in fact, premature reporting of such. Thus, this study provides no conclusive evidence regarding the existence of any lag and certainly no evidence on an average one year lag.

The United Distribution Companies (UDC), in its oral argument, submitted that some time lag undoubtedly exists in the reporting of reserve additions. However, UDC argued that such lag would be offset, if not overtaken, by the time lag attendant in a continuing program of exploratory and developmental drilling. This position is based on the fact that the relatively little exploratory drilling footage results in the reporting of substantial reserve additions and that subsequent developmental drilling in the same acreage, with much lower reserve additions, should properly be offset against the earlier reserve additions discovered in the exploratory drilling. This argument says, correctly, that reserves thus discovered and reported cannot be produced without additional developmental drilling.

From this conflicting evidence, it is apparent that determining and correcting for reporting variations is extremely difficult. Certainly, no conclusion can be reached that a one-year average lag time is more appropriate than assuming no lag. Rather, we have determined that, on the average, drilling footage for one year corresponds to the reported reserve additions for that same year. This is supported by the staff report which indicates that nineteen of the twenty-nine fields shown as being discovered in 1971-1972 by the staff are also shown as being discovered in the same year by the producers and by the AGA.⁶⁴

At the same time, we realize that reporting variations and inaccuracies do exist. In order to compensate for such, a long series of years (eight to nine) was averaged. The nine-year average included productivity computations for 1967 (803 Mcf per foot) and 1968 (597 Mcf per foot). While these productivity figures are substantially higher than those computed after 1968 (see Exhibit 1), they were included to offset the lower productivities from 1974 (172 Mcf per foot) and 1975 (237 Mcf per foot) which may be subject to some reporting variance.

Also suggested in the dissent was the adjustment of AGA data to exclude revisions of reserve additions from prior

years. These revisions are set forth in Exhibit 1. It is true that revisions, as reported in a particular year, may apply to reserves discovered in years not included in the series used to develop the

productivity factor. However, insofar as such revisions would apply to years in the series averaged (i.e., 1967-1975), then omitting them would understate or overstate the reserves added.⁶⁵

EXHIBIT 1.—Productivities (excluding Alaska)

Year	(1) AGA gross reserve additions (billion cubic feet)	(2) AGA reserve revisions (billion cubic feet)	(3) AGA reserve additions without revisions (billion cubic feet)	(4) API drilling footage (thousands)	(5) Productivity based on gross reserve additions— revisions included (million cubic feet per foot)	(6) Productivity based on new reserve additions only— revisions excluded (million cubic feet per foot)
1967	17,284	3,713	13,571	21,533	803	630
1968	12,335	4,036	8,299	20,665	597	402
1969	6,875	(1,440)	8,315	24,064	236	346
1970	9,351	(290)	9,641	22,852	409	422
1971	8,565	(1,471)	10,036	22,699	379	444
1972	7,597	(1,911)	9,508	26,743	284	356
1973	3,717	(5,847)	9,064	35,587	104	255
1974	6,686	(1,828)	8,514	38,975	172	218
1975	9,946	749	9,197	41,898	237	220
1967-75	82,356	(3,789)	86,145	254,926	323	338
1968-75	65,072	(7,502)	72,574	233,393	279	311

Source: (1) "Reserves of Crude Oil, Natural Gas Liquids, and Natural Gas in the United States and Canada and United States Productive Capacity," AGA-API-CPA, 1967 through 1975.
(2) "Quarterly Review of Drilling Statistics for the United States" (API).

Exclusion of revisions can only tend to distort the productivity calculations. If there was a tendency to bias initial reserve estimates too low, then failure to include reserves would clearly lead to underestimation of productivity. If there was a tendency to bias reserve estimates high, then exclusion of revisions would lead to clear overestimation of productivity. If there is no bias, and the initial estimates are neither high nor low on the average, then inclusion of revisions should have no appreciable effect over a long period of time. Thus, if an initial estimation bias were to exist, inclusion of revisions would be proper, and if no bias were to exist, inclusion would also be proper. Therefore, revision inclusion is proper even without proof of bias.

The averaging of AGA gross reserve additions results in a slightly lower productivity range than the averaging of the AGA reserve additions net of revisions. The eight-to-nine year productivity range based upon gross (including revisions) AGA reported reserve additions is 279 Mcf to 323 Mcf per foot drilled. The eight-to-nine year productivity range based upon newly reported net reserve additions only is 311 Mcf to 338 Mcf per foot drilled.

In oral argument IPR's Counsel, Mr. Williford, suggested that the rates established in Opinion No. 770 could result in higher ultimate recovery factors which would be used to determine reserve additions for offshore reserve additions during the years 1973 through 1975. On the basis of approximately 10 Tcf of reserve additions during that period⁶⁶ and an assumed increase in ultimate recovery from 80 to 90 percent, IPR's Counsel concluded that an additional 1 Tcf of reserve additions might be added through subsequent revisions to the reserve additions of this period.⁶⁷ Although this calculation is only an estimate, the addition of 1 Tcf to total gross reserve additions for the averaging

period used in Opinion No. 770 would increase the 300 Mcf productivity therein to only 304 Mcf per successful foot drilled.

It is commonly accepted that the ultimate recovery factor is a function of the price-cost differential, and that if subsequent prices are higher than those assumed in initially estimating reserves, these reserves will be understated. There is, however, nothing in the record that would permit the proper adjustment of reserve additions.

First, AGA does not provide a standard formula for adjusting reserve estimates to reflect a higher ultimate recovery factor due to increased rates; furthermore, we do not know what rate-cost factors have been assumed in initial reserve addition estimates. Secondly, Mr. Williford's estimate of the incremental ultimate recovery factor differential cannot be supported by reference to other sources, and a specific differential finding should not rest only on his statement at oral argument. Thirdly, Mr. Williford applies his ultimate recovery factor differential to offshore gross reserve additions from 1973 through 1975. In making this adjustment, we do not believe that the reserve additions should include revisions because such revisions are clearly adjustments to earlier reserve additions.⁶⁸ Finally, we do not believe that the effect on offshore reserve estimates discovered during the 1973-1975 period can be proportionally applied to onshore estimates and to different time periods. While we are unable to ascertain the exact effect of new prices on reserve additions, we are confident that the effect will be de minimis, given the zone of reasonableness employed in Opinion No. 770.

Comments have also been received remarking that the BNG and OEC recommendations of August 4, 1975, suggested use of higher productivity factors than that used in Opinion No. 770. BNG recommended the use of a 375 Mcf per foot drilled productivity factor based on

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a nine-year average (1966-1974). OEC, using its new costing approach which differentiated between exploratory and developmental productivity, recommended the equivalent of a 333 Mcf per foot drilled productivity factor based on a five-year average (1970-1974).⁶⁰

When these recommendations were made, however, the AGA reserve data and API drilling data for 1975 were not available. The 1975 productivity factor, based upon 1975 reserve additions and drilling footage, was 237 Mcf per foot drilled. When such data are added as part of a nine-year series suggested by BNG and a five-year series suggested by OEC, productivity factors approximating the 300 Mcf/foot used in Opinion No. 770 result.

It should also be noted that the productivity range used in Opinion No. 770 spanned nearly all of the productivity estimates submitted by respective parties in their cost studies. Mr. Roe, on behalf of the Indicated Producer Respondents (IPR), suggested a productivity range of 300 Mcf to 320 Mcf per foot drilled. Mr. Marsh of IPR suggested a lower productivity factor of 250 Mcf per foot drilled. Mr. Root, representing the United Distribution Companies (UDC), utilized a productivity estimate of 291 Mcf per foot drilled in its cost study.

On page 15 of their application for rehearing, APGA erroneously averages annual productivity figures without weighting the annual productivities by their drilling footages. Rather than obtaining the weighted average by the elementary mathematical calculation of dividing total reserve additions by total drilling footage, APGA mistakenly averaged the averages.

As we pointed out in Opinion No. 770, "the final determination with respect to the appropriate estimate of productivity rests largely upon judgment that reflects consideration of a productivity that realistically may be achieved in this biennium and a productivity that yields a price adequate to induce the necessary drilling activity."⁶¹ An ideal estimate of future productivity would be based upon a stable data series that would clearly display discernible trends. Unfortunately, such an ideal does not exist. We are forced to use currently available data which may tend to understate productivity in combination with the averaging technique which may tend to overstate productivity, thus tending to cancel the effects of both.

Finally, comments of APGA, NYPSC, Congressmen and SDPUC, to the effect that we may not rely upon statistical data gathered and published by natural gas industry sources, have been previously resolved in favor of the Commission by the courts. *Permian Basin Area Rate Case*, *supra*; *Placid Oil Co., et al. v. FPC*, 483 F. 2d 880 (5th Cir. 1973), *aff'd*, *Mobil Oil Corp. v. FPC*, 417 U.S. 283 (1974); *Shell Oil Co. v. FPC*, *supra*.

C. DRILLING AND DRY HOLE COSTS

APGA argues that the Joint Association Survey (JAS) drilling cost data has

not been adequately examined and should be subjected to cross-examination and other adversary procedures. We are not persuaded by this argument for the reasons set forth in Section A of Part I of this opinion. APGA, like all other parties in this proceeding, was afforded the opportunity to rebut the drilling cost evidence in its reply comments. APGA chose not to do so. Instead, APGA chose to rely upon its allegation that JAS drilling cost data lacks validity. At the same time, another party to this proceeding, UDC, tested the validity of JAS drilling costs by comparing them with the average drilling costs reported by the Bureau of the Census.⁶² This comparison disclosed that the JAS was actually more conservative than the Bureau of the Census in 1967 and 1972 in the reporting of drilling costs.

The Commission also considered Bureau of Labor Statistics (ELS) data as an independent check on the industry data.⁶³ That data, tendered under penalties of law, confirmed the validity of the JAS data.

Again, the Commission would have found it preferable to rely in this case, and in many other cases, on data generated by its recently promulgated Form 64. However, the applicability of that form has been stayed by the court.⁶⁴

If the limited Form 64 data that have been voluntarily filed were considered, successful well costs, dry hole costs, and lease acquisition factors, all of which are important components of the cost calculus of Opinion No. 770, could be computed. The computations indicate that successful well costs and dry hole costs would run consistently higher than the corresponding figures used on page 45 of Opinion No. 770. The figures for 1975, which are the ones used in the Opinion, were found to be 44% higher for successful wells and 86% higher for dry holes. In addition, the lease acquisition costs are a consistently higher proportion of successful well cost than was indicated in Opinion No. 770, with 1.3 being the appropriate factor rather than the 1.1 used in Opinion 770.

In light of the court action and the questionable quality of the Form 64 data, we determined that the voluntary filings did not provide a sufficient basis for changing these cost components derived from JAS data. The JAS cost series are ones that have never been subject to serious attack. When any attacks have occurred, the use of JAS data has been upheld by the courts. Therefore, we will continue to make use of this data and accordingly reject the arguments of APGA.

With respect to the Commission's computation of drilling costs in Opinion No. 770, IPR suggests that the Commission's use of the 1975 index updating constant dollar drilling costs for an average of 1973-74 is erroneous. They suggest applying the index to the 1974 data alone. The record provides no support for trending constant dollar costs. In the absence of such a finding, averaging historic constant dollar costs to obtain an unbiased estimate of their mean is

most appropriate. Using only the 1974 data is to reject the information contained in the constant dollar 1973 data regarding the true level of drilling costs. Thus, we cannot agree with IPR on this point. In fact, it is unfortunate that the IPAA index is not available for earlier years to allow us to consider the earlier constant dollar drilling costs data in our determination.

Regarding dry hole costs, IPR contends the Commission erred in choosing the most recent ratio of dry hole to successful well footage and that our treatment is inconsistent with our productivity determination, in which we chose to use a 8 to 9 year average. We first note that the data series on the ratio of dry hole to successful well footage has, unlike the annual productivity series, demonstrated a clear downward trend.⁶⁵ Furthermore, there is no problem regarding reporting lags in this data that require the compensating long-term averaging employed in the productivity calculation.

D. LEASE ACQUISITION

With respect to lease acquisition cost, IPR suggests that our lease acquisition to successful well costs ratio averaged over eight years fails to place sufficient emphasis on recent (high cost) data. APGA, on the other hand, argues that the Commission's approach "is unlawful because it represents an abdication by the FPC of its statutory rate setting power to the Department of Interior" and suggests that "the Commission can help in this effort by not permitting the pass-through by producers of any lease acquisition cost unless gas is being sold from those leases to interstate consumers at the regulated price." Neither of these arguments is persuasive.

As to the former, we simply note that our weighted average method gives almost one third weight to the 1973-74 years.

Regarding the latter, in computing the lease acquisition cost component, we found it necessary to average the lease acquisition costs and successful well costs for a number of years to derive a meaningful estimate.⁶⁶ Lease acquisition costs will fluctuate greatly with the offshore lease activity of the Federal government and with the prospective price/cost relationship assumed by producers. Therefore, some averaging technique is necessary.

At the same time, we determined that lease acquisition costs are legitimate actual costs which must be recouped by producers as part of their cost-of-service. *Mobil Oil Corp. v. F.P.C.*, *supra*. The suggestion of APGA to disallow pass-through of certain costs, therefore, would be unlawful.

NYPSC does not object to our current treatment of lease acquisition costs, but suggests:

The Commission should expressly announce in its Opinion on Rehearing that its future nationwide rate determination will not utilize any ratio which exceeds the 1.1 figure utilized in Opinion No. 770, with any higher figure which might be applicable in specific cases as a result of lease sale bonus payments in 1975 or 1976 being the subject of special relief applications.

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While we appreciate the motivation behind NYPSC's suggestion, we cannot so limit our future rate determinations. Just as this Commission could not determine the allowable amount of state production or severance taxes for inclusion in the allowed rate, similarly this Commission has no authority to determine the method or amount of lease payments to the Department of the Interior. While we are mindful of our responsibility not to allow unreasonable costs in our cost-based rate determination, we cannot arbitrarily conclude that lease acquisition costs beyond some set ratio are unreasonable without substantial and timely information.

E. ALLOCATION OF COSTS TO LIQUIDS

In Opinion No. 770, we determined that natural gas producers were able to capture certain liquifiable hydrocarbons as by-products of natural gas production. Since the price of these liquid hydrocarbons is not subject to the jurisdiction of the Commission, a portion of the total cost of exploration and development for the joint products had to be assigned to the liquids.

In Opinion No. 699-H, 3.89 cents per Mcf liquid credit was deducted from the revenue requirements for each Mcf of natural gas in the DCF cost analysis. The BNG and OEC recommendations herein suggested the use of an 8.45 cents per Mcf credit.⁷⁶ In Opinion Nos. 749 and 770, however, the Commission determined that an allocation method founded upon the relative economic values of these products in unregulated markets would be more equitable than the allocation methods that were based solely upon liquid credits physical characteristics, such as volume or relative Btu content. Accordingly, 9% of the costs were assigned to liquid production and the remaining 91% assigned to natural gas.⁷⁷

APGA, NYPSC and Congressmen appear to misunderstand the DCF analysis. They endorse the 8.45 cents per Mcf net liquid credit suggested by the staff, and object to the modified Btu treatment of the liquid credit in Opinion No. 770. They should note, however, that if the 91% to 9% cost allocation method used herein were to be replaced by the 8.45 cents per Mcf net liquid credit, the \$1.42 per Mcf rate established herein would increase to \$1.48 per Mcf.⁷⁸ We seriously doubt that these parties intend to advocate this rate increase.

IPR, on the other hand, agrees with the abandoning of the "liquid revenue credit" but objects to the substitution of the modified Btu method of cost allocation. Instead, IPR suggests the use of a vapor volume method of cost allocation. The inequity of such an allocation is easily illustrated by analogy. If a farmer priced milk and cow manure by allocating costs according to their relative volumes, the price of milk would be cheap indeed. Yet the market seems to value milk more than manure on a volume basis even though the latter is of some value. Thus, if the farmer priced according to relative volume, allocated

costs would have greatly overpriced manure and greatly underpriced milk. In the same fashion, we must guard against the consumer paying for greatly overpriced gas. Therefore, this suggestion of IPR is rejected.

F. DEPLETION PERIODS

APGA contends that producer and pipeline filings with this Commission demonstrate that individual wells are being produced at the maximum possible rate such that a large percentage of the recoverable revenues are produced and sold during the first several years of production with the rate of take declining continuously thereafter. As a result, APGA concludes that the just and reasonable rate should be lowered; instead, the Commission merely reduced the depletion period from 18 to 15 years while assuming a constant level of production throughout.

APGA's argument fails to take into account that the Commission in Opinion No. 770 was attempting to determine the cost of producing an Mcf of gas from a well drilled during the 1975-1976 biennium. To account for recent trends in production rates, the Commission reduced the depletion period from 18 to 15 years, thereby shortening the period over which the investment is to be recovered, which operates to lower the overall price per Mcf. As to the rate of depletion, however, the Commission was forced to conclude that production was the same for each of the 15 years (Op. 770, p. 73). APGA did not offer a scintilla of evidence to contradict this conclusion.

The Commission was, however, well aware of the recent trends toward more rapid rates of take from both wells and fields in early years, as depicted in the field rates-of-take graphed in Exhibits 12 and 13 of Opinion No. 770.⁷⁹ That is precisely the reason why the Commission also relied upon the evidence from the OEC model. This model allows for accelerated rates of production in the early years of the depletion period of a well and the rapid development of a field. As reported in Exhibit 19 of Opinion No. 770, we employed a 15-year well depletion life, with 50 percent of total production from a well occurring before the end of its sixth year.⁸⁰ Furthermore, while the field was developed in an accelerated fashion over 10 years, resulting in a field depletion life of 25 years, 50 percent of the total production occurred before the end of the ninth year.⁸¹ The prices resulting from the OEC model were not significantly different than those obtained from the 699-H model.⁸²

Thus APGA's contention that rates of take are increasing is correct. Their belief that we have not considered that fact and taken it into account in incorrect. While the 699-H model may be too simplistic in assuming a constant rate of take for a well, it also fails to account for the timing differences of exploratory and developmental well expenditures. The OEC model adjusts for both, and the prices therefrom indicate that the errors in the 699-H model cancel each other in terms of price determination.

G. RATE OF RETURN

In Opinion No. 770, the Commission allowed a 15% overall rate of return which represented a 16.98% return on common equity. The Commission determined that 15% represented a rate of return that was higher than that realized by most industries in recent years, but also found that it was the appropriate incentive rate required to attract the new venture capital necessary to finance the exploration, development and production of sorely needed natural gas supplies.

IPR objects that a 15% rate of return is too low while APGA argues that it is above the average rate for other industries. Neither of these arguments is persuasive. In Opinion No. 749, the Commission established a 15% rate of return, but placed less reliance on the "comparative earnings" of the petroleum industry. Instead, greater emphasis was put on the comparison of returns on equity. That policy was continued in Opinion No. 770.

Certainly, the 15% overall rate of return and 16.98% return on common equity are in line with those returns of other extractive industries. In fact, the 16.98% return on equity herein is somewhat higher than the latest 12-month average return on equity for oil and gas industry (15.5%),⁸³ as indicated by APGA, but that difference represents the needed incentive to elicit the capital for increased production of gas. Furthermore, the Commission was mindful of the fact that 1975 earnings for most industries are not representative of their long-run rates of return, given the state of the economy and capacity utilization in 1975. We were also aware that long-term interest rates are currently above their level when the 15% rate of return allowance was set by the Commission in Opinion 699, issued June 21, 1974.

The Commission's allowance of the same 15% rate of return was upheld in several area rate proceedings.⁸⁴ More recently, it was used in Opinion No. 699-H and upheld by the Court in *Shell Oil Co. v. FPC*, *supra*, where the Court found:

The Commission is to be upheld regardless of whether one views the rate of return as a factual determination which is subject to the substantial evidence standard of review, or as a parameter of the DCF model which is entitled to the less severe standard for reviewing a discretionary selection of policy and methodology. The record reveals that the Commission carefully evaluated average rates of return on capital invested in other industries and concluded that a zone of reasonableness spanned from 12 percent to 15 percent. The selection of the highest rate of return within the zone was based on the desire to provide the extra incentive which the Commission felt is needed to encourage increased exploration and development. We find no ground for either reversing the policy of setting a rate which attracts capital into natural gas production, or setting aside the factual base that supports the choice of a 15 percent rate of return. (520 F.2d at 1079-80)

Therefore, for the aforementioned reasons, we find that the arguments of

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APGA and IPR are unfounded, and they are rejected accordingly.

H. FEDERAL INCOME TAXES

APGA, NYPSC, Congressmen, SDPUC, and the Commonwealth of Pennsylvania and the Pennsylvania Public Utility Commission (Pennsylvania), all allege that error was committed in the Commission's decision to include a 48% Federal income tax allowance in the national rates established in this proceeding. We are not persuaded by their arguments, and believe that our treatment of taxes in the DCF cost analysis is correct.

All of the above-mentioned parties argue that there is an inadequate record upon which an income tax allowance can be computed, and suggest that an allowance should be permitted only for taxes actually paid. All but NYPSC cite *City of Chicago v. FPC*, 458 F.2d 731 (D.C. Cir. 1971), as support for their position, where the Court stated that "[i]n hypothetical taxes can be included in cost of service just as no other hypothetical expenses can be included." 458 F.2d at 756.

At the outset, a distinction must be made between individual company regulation and area or national rate setting. The Court, in *City of Chicago*, supra, distinguished the two when it stated:

[W]hen a company's rates are set under individual cost-of-service, then, only actual costs—tax and other—can be included. When area rates are used, however, all elements of cost on which the rate is based are to some degree hypothetical, for they are derived from average costs incurred by producers within the relevant area. 458 F.2d at 756.

However, we believe that in determining the national rate for new gas, the "average costs incurred by producers," as reflected in their past income tax returns, are not relevant for ascertaining future tax liabilities. Historic returns reflect depletion allowances, the effects of consolidated tax returns, and intangible drilling-cost tax savings. As stated in Opinion No. 770, the first of these has been repealed,⁵⁰ the second is not applicable under this Commission's policy to restrict our cost and revenue considerations to jurisdictional activities,⁵¹ and the third is already properly factored into the rate determination via tax savings on initial outlays.

The 52 cent rate established under Opinion No. 699-H was sufficient to yield only a very low rate of return⁵² on the actual costs incurred in 1973 and 1974.⁵³ When a low return on investment is considered in conjunction with the availability of the percentage depletion allowance during those years, it is very unlikely that any meaningful historical average tax would be derived for a prospective rate determination. However, the absence of any meaningful historical average tax for producers does not preclude the Commission's conceptual treatment of the existing tax laws and economic conditions that would prevail with a full cost-based price.

As we observed in Opinion No. 770, in setting a price to cover the costs of gas

from new wells, we are dealing with marginal activity, and the marginal, rather than the average tax rate, is the relevant one.⁵⁴ The repeal of percentage depletion is a reality. The existence of a 48 percent rate for corporate income over \$50,000 is also a reality. Therefore, we believe that the current tax law, as set forth in the Internal Revenue Code, is the best foundation on which to base our rate determination. It is in no sense "hypothetical".

There were four obvious approaches that the Commission could have used in treating taxes as a cost component:

(1) Income taxes could have been ignored entirely.

(2) Income taxes could have been treated as they were in Opinion No. 699-H.

(3) Some tax rate less than 48 percent could have been assumed.

(4) The full 48 percent statutory rate could have been assumed.

If income taxes were ignored entirely, as in alternative (1), the resulting rate without an escalator would be \$1.46 per Mcf.⁵⁵ This would entail ignoring any tax savings in preproduction years, since no taxes are assumed, and recognizing no tax liability during the productive years.

In light of the recent amendments to the Internal Revenue Code by the Tax Reduction Act of 1975,⁵⁶ the Opinion No. 699-H treatment of taxes, as in alternative (2), could not have been continued. The 699-H tax treatment, which captured the tax reductions associated with the expensing of preproduction outlays while assuming no payment of taxes, is no longer tenable.

If some tax rate less than 48 percent were assumed, as in alternative (3), some prospective composite average tax rate of the industry would have to be computed. If a lower tax rate were assumed in the production years, then the lower rate would also have to prevail in expensing the preproduction outlays. This fact tends to offset the direct effect of a lower tax rate, and the resultant constant price without an escalator would be between \$1.46 and \$1.61 per Mcf, depending upon the tax rate chosen.

Finally, if the 48 percent tax rate is assumed, as in alternative (4) and Opinion No. 770, the resulting rate without an escalator would be \$1.61 per Mcf. This treatment applies the current provisions of the Internal Revenue Code. This method reduces the initial gross outlays by the tax reductions associated with immediate expensing, recognizes the 10 percent investment tax credit on eligible investment, and applies a 48 percent tax rate to all computed taxable income.

None of these alternatives is exactly correct for every given producer in any given year. Just as the other cost items in our methodology apply to the entire industry, and therefore may not be representative of any specific producer, similarly the tax cost item is representative of the entire industry. As we demonstrate herein, our treatment does not assume that taxes will be paid immediately. Our methodology captures for the consumer any deferral of tax payments

through further exploratory and developmental activities in the pricing of the gas at the time of the deferral. Our treatment is not inconsistent with the industry paying less than 48% on its "book" income.

Some producers may pay more or fewer taxes per Mcf than that implied in the Opinion. They may defer taxes by continued exploratory and development activity. Their tax liability may also differ because their costs vary from the industry average or their tax situation is different than we would expect it to be on the basis of jurisdictional activities. If it is so because of non-jurisdictional activities which result in tax losses or credits, such factors lie beyond our jurisdiction. The Commission cannot negate the intent of Congress by capturing for gas consumers the benefits which it designed to promote a wide variety of specific goals.⁵⁷

We could have also assumed that the industry would follow some specific time path of future exploratory and developmental activity and projected future expenses for tax purposes therefrom. Those tax reductions could have then been credited to the pricing of gas from wells drilled or dedicated during the current biennium. But it that were done, these tax reductions could not count again in pricing the gas from wells associated with their incurrence. Thus subsequent biennial rates would be substantially above those that would otherwise prevail. For example, if in Opinion No. 770 the tax reduction of 17¢ per Mcf on the gross outlay of 45¢ was not available because it had been specifically accounted for in setting prior rates, the price of the 1975-76 gas would be \$2.35 per Mcf escalating at 4¢ per year rather than \$1.42.⁵⁸

The method we have chosen for the determination of the federal income for element of the rate in this opinion is not speculative. When applied consistently over time it clearly ensures that consumers will receive all the benefits from any tax reductions the tax law permits via the pricing of the gas from wells drilled during the biennium to which the reductions can be attributed.

In Opinion No. 770, we determined that an income tax component, at the 48% statutory rate for corporation,⁵⁹ should be included in the DCF costing models to more accurately reflect the tax savings experienced by producers during the preproduction years and the tax liabilities incurred during the years of production. The critical consideration in the DCF analysis is the timing of cash inflows and outflows, since timing is determinative in computing their present values. Accordingly, the timing of tax savings or tax incurrence, like any other cost or revenue element in the DCF analysis, had to be adequately treated.

All deductions and credits that pertain to the search for and production of natural gas were recognized as reducing the cash outflow of producers at the earliest points at which such deductions may

Footnotes at end of document.

have been taken under the Internal Revenue Code. The time value of those accelerated deductions were thereby preserved for the benefit of the consumer. At the same time, the average producer that finds and develops natural gas reserves in this biennium is expected to incur actual income tax liability in the amount and at the time that is projected in the costing models. The Internal Revenue Code requires that an income tax be imposed on income at the 48% rate⁹⁵ after all deductions have been accounted for. The 48% marginal tax rate has been used by the Commission before; in both Opinion No. 699-H, which was upheld by the Court in *Shell Oil Co. v. F.P.C.*,^{supra} and Opinion No. 749, the 48% rate was used to determine the tax savings from expenses in the pre-production period.⁹⁶ Therefore, the mandated 48% statutory tax rate was treated as a cost component in Opinion No. 770.

APGA, Congressmen and Pennsylvania cite certain area rate opinions and Opinion Nos. 699 and 699-H to support their contention that no income tax component should be included in the cost computations. It was pointed out that no income tax allowance was permitted in the Permian Basin⁹⁷ and Southern Louisiana⁹⁸ area rate proceedings due to the absence of evidence in the record that actual income tax liability was incurred by producers. Similarly, in Opinion Nos. 699, the Commission assumed that producers incurred no income taxes.

In Opinion No. 699-H, however, taxes were not ignored, but treated in such a fashion as to result in a negative income tax component.⁹⁹ The 48% rate was used in the DCF rate of return calculations to reflect the write-off of all eligible tax preferences. While corresponding tax liabilities were also included in the DCF analysis to offset these pre-production tax credits, the net effect was to reduce the producer's assumed investment by the time value of the anticipated tax savings.¹⁰⁰

In *Shell Oil Co. v. F.P.C.*, 520 F. 2d 1061, 1080 (5th Cir. 1975), cert. denied sub nom., *California Co., et al. v. F.P.C.*, 44 USLW 3716 (June 14, 1976), the Fifth Circuit upheld the Commission's decision in Opinion No. 699-H to eschew a simple tax component because of "the complexity of the Federal income tax provisions for gas producers, the ability of producers in some circumstances to indefinitely postpone tax liability, and the impending reduction of depletion allowances * * *."

This appeared to be a valid reason at that time. Subsequently, however, the Tax Reduction Act of 1975 effectively repealed percentage depletion for "regulated" natural gas on or after July 1, 1976. That action required a reconsideration of the overall impact of the income tax law on the producer ratemaking methodology. The reconsideration of the issue revealed that the premises on which prior decisions were founded were inaccurate at the outset, eroded by change in law, or properly accounted for in the new gas costing model.

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It is also important to note that the income tax treatment in Opinion No. 770 is essentially the same as the treatment in Opinion No. 699-H since both employed the statutory tax rate of 48% and the same DCF analysis. The major distinction is that Opinion No. 699-H only provided for producer income tax liability to the extent of income tax credits,¹⁰¹ whereas Opinion No. 770 provides for income tax on all taxable income.

In this regard, it is instructive to step through the various tax treatments that could have been employed.

Opinion No. 699-H utilized the liquid credit method of resolving the joint production problem and allowed for the tax savings from expensing a large fraction of preproduction outlays while not putting a tax component into cash flows from production. Without an escalator, the resultant price was:

$$\frac{1}{18} \times 7.047 \times (.84P - 7.771) = 15.555 \\ \text{or } P = 56.55\text{¢ per Mcf.}$$

If Opinion No. 699-H had utilized a 48% tax rate on production revenue, a 22% depletion allowance, and a 14.30% computational rate of discount (based upon 1972 capital structure and debt cost), the price would have been determined by the following price-cost calculus:

$$\frac{1}{18} \times 7.2721 \times \{ [.84P - (3.10 + 1.25 + .20 - 3.89 + 4.55)] \times .52 + .22(.84P) .48 + 4.55 \} = 15.39 \\ \text{or } P = 68.99\text{¢.}$$

The square bracketed term above is the before-tax income, the .22(.84P).48 represents the tax-savings from depletion, the 4.55 reflects depreciable or depletable assets, and 15.39 equals the present value of the after-tax cash outlays. If the 22% depletion allowance were removed, the price would have been increased to 83.00¢ per Mcf (removing the depletion tax-savings term and recomputing for P above).

Assuming no taxes at all (neither tax savings nor tax liabilities), the price would be:

$$\frac{1}{18} \times 7.047 \times (.84P - 0.66) = 24.36 \\ \text{or } P = 74.86\text{¢ per Mcf.}$$

Thus, if taxes in Opinion No. 699-H had been incorporated at the 48% marginal rate with available depletion allowance, the price therein without escalation would have been 69¢ per Mcf. If taxes had been ignored altogether, the price would have been 75¢ per Mcf. Removal of the depletion allowance under the conditions of Opinion No. 699-H, ceteris paribus, would have increased the price from 69¢ to 83¢, or 14¢ per Mcf.

APGA and Congressmen also argue that there is no data to assess the effects of the Tax Reduction Act of 1975, and, therefore, the repeal of percentage depletion cannot be used to support the allowance of an income tax component. Since the elimination of the depletion allowance was a provision added on the floor of the House of Representatives and not the product of hearing and investigation, there were no estimates of Treasury revenue impacts made by the Treasury Department or affected taxpayers prior to its passage. However, the provisions dealing with the repeal were

clearly intended to increase the Federal income taxes of the petroleum industry.¹⁰² After its passage the staff of the House Ways and Means Committee estimated the Treasury revenue effect of the repeal of percentage depletion for oil and gas at \$1.7 to \$2.2 billion in 1975 and \$2.7 billion in 1976.¹⁰³

Further Congressional intent is expressly stated in § 613A(b)(2)(B) of the Internal Revenue Code, where an exemption from the repeal of percentage depletion was provided for "regulated natural gas". Under those provisions, the effectiveness of the repeal for "regulated natural gas" was delayed until July 1, 1976, "the price for which has not been adjusted to reflect to any extent the increase in liability of the seller for tax under this chapter by reason of the repeal of percentage depletion for gas." Clearly, this indicates that the Congress expected a rate increase to reflect higher taxes.

SDPUC and the Congressmen have stated that the Commission ignored the exceptions to the repeal of percentage depletion. (1) with respect to gas sold under a fixed-price "contract", and (2) the exemption for independent producers. The fixed-price contract exception cannot apply to gas sold at the rates provided in this Opinion.¹⁰⁴

With respect to gas sold by independent producers and royalty owners,¹⁰⁵ percentage depletion will be continued but only to a limited extent. Percentage depletion at the rate of 22% in 1976 is available to less than 4 million Mcf of gas or 720,000 barrels of oil per year, but not for both. This allowance is gradually reduced to 15% and approximately 2 million Mcf per year by 1984. Only those producers with a minimum of 10 million Mcf per year were made parties to this proceeding and, in light of the definitional restrictions of an "independent producer" eligible for this exemption, the effect of this limited depletion allowance is minimal for the parties to this proceeding. To compute the impact of that allowance for independent producers would require two assumptions: (a) the size of the average producer and (b) the portion of the allowance such producer will elect to take with respect to gas. If, for example, the average independent producer were assumed to produce 25,000 Mcf of gas per year, the impact of the depletion allowance would be to shield $.22 \times 12,000 \times 365 / 25,000,000$ or 3.9% of income from taxation in the early years, with declining amounts thereafter. If all the depletion allowance was credited to gas and none to oil. Such a procedure would be highly speculative with a very limited rate impact potential. Finally, as to small producers, we have relied in part upon the availability of the depletion allowance to justify not adding a small producer increment to this rate. Thus, the small continuing depletion allowance has been adequately considered by the Commission. Accordingly, those objections of SDPUC and Congressmen are dismissed.

This exemption is not available to a transferee of any interest in a proven gas property

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after December 31, 1974, nor does the exemption apply to a producer who directly or through a related person sells gas through a retail outlet.

In their application, Congressmen cite a study prepared by the Congressional Research Service which indicates that the elimination of percentage depletion could only result in a rate increase of 13 cents. As shown supra, the arith-

metic of that study is correct; but it is based upon the 699-H tax treatment rather than the tax treatment now deemed appropriate. The actual effect of the repeal of the percentage depletion allowance is approximately 27 cents per Mcf.¹⁰⁰ This was also illustrated in a table submitted by UDC in its oral argument. That table is included herein as Exhibit 2.

EXHIBIT 2.—True cost effect of the loss of percentage depletion

Line No.	Item	Exhibit 30 of opinion No. 770 adjusted to show the cost of gas if percentage depletion were still in effect	
		Last column of exhibit 30 showing cost without percentage depletion (2)	Such cost if percentage depletion were still available (3)
	(1)		
	Cost components (cents per thousand cubic feet):		
1	Other exploratory.....	4.73	4.73
2	Exploratory overhead.....	1.71	1.71
3	Lease acquisition.....	14.13	14.13
4	Dry hole.....	8.12	8.12
5	Successful well.....	12.84	12.84
6	Recompletion.....	.50	.50
7	Other production facilities.....	3.44	3.44
8	Total.....	45.47	45.47
9	Cost allocation factor (percent).....	91	91
10	Allocated cost (cents per thousand cubic feet).....	41.38	41.38
11	Working capital (cents per thousand cubic feet).....	1.33	1.33
12	Level price (cents per thousand cubic feet).....	161.16	187.42
13	Royalty.....	25.79	21.99
14	Total operating expense.....	2.91	2.91
15	Liquid credit.....	0	0
16	Taxes (net).....	43.72	23.65
17	Return of investment.....	41.38	41.38
18	Return on investment (including working capital).....	47.36	47.49

NOTE.—Effect of the loss of percentage depletion—23.74 cents.

Source: UDC, Oral Argument, table 2, Sept. 17, 1976.

APGA asserts that "the Commission does not address * * * the effect cost depletion will have in reducing the producer's tax liability." To the contrary, cost depletion is taken into account in the model employed in Opinion No. 770. Cost depletion is available with respect to the portion of the intangible investment that is not expensed (e.g., 25% of lease acquisition expenditures). Those amounts are reflected in the price calculus under the heading "Depreciation."¹⁰⁷

APGA, SDPUC and Congressmen further argue that the preproduction costs and investment tax credits are treated in the DCF analysis as reductions of investment base rather than deductions from current income. They argue that this procedure could result in an overestimation of the taxes paid by producers if deductions for subsequent periods as the result of either increased production costs or from "real resource growth" are sufficiently great.

In Opinion No. 770, we noted that increasing intangible drilling cost deductions were a possible source for the deferral of the income tax liabilities allowed therein.¹⁰⁸ Further consideration

Footnotes at end of document.

leads to the conclusion that the methodology employed in Opinion No. 770 takes account of all future increases in intangible drilling costs deductions whether caused by increasing unit costs or real resource growth. Whenever a producer makes future investment for the exploration or development of new gas, the value of the tax deductions resulting therefrom will be subtracted from the gross outlays used to compute the just and reasonable rate for gas from wells drilled at that time. Thus the time value of the deferral in tax liability obtained by that investment will be returned to the consumer through the pricing of that gas, consistent with the decision in *Alabama-Tennessee Natural Gas Co. v. F.P.C.*¹⁰⁹

Contrary to the assertion by APGA, the methodology does not treat each well in a "vacuum." If APGA was correct, there could be no income tax reduction from the initial investment. The deductions resulting from the investment would have to be deferred within the limits of the "loss carry-over" provisions of the Internal Revenue Code until production from the well commenced. The result of such a treatment would increase the price to \$2.19 per Mcf.¹¹⁰

It is constructive to examine the tax situation of a hypothetical producer under the tax treatment and prices we have determined. Exhibit 3 depicts the pro forma production, revenue, and tax liability situation over the next 15 years for a hypothetical producer who pro-

duced 20 units in 1974 and will continue exploratory and drilling activity at a rate sufficient to slightly increase his production through 1984, with a suspension of any exploration or drilling beyond that time. The revenue and tax cal-

culations are based upon a well life of 15 years and the current interstate price structure and estimated costs as found in Opinions 749 and 770 herein.

This exhibit points out a number of interesting factors:

Exhibit 3

	Year														
	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
Year of 1st Production: ¹															
1974 and prior	20	18	18	16.00	16.00	14.00	14.00	12.00	12.00	10.00	10.00	8.00	6.00	6.00	0
1975	0	2	2	1.80	1.80	1.60	1.60	1.40	1.40	1.20	1.20	1.00	1.00	.80	.60
1976	0	0	2	2.00	1.80	1.80	1.60	1.60	1.40	1.40	1.20	1.20	1.00	1.00	.80
1977	0	0	0	2.00	2.00	1.80	1.80	1.60	1.60	1.40	1.40	1.20	1.20	1.00	1.00
1978	0	0	0	0	2.00	2.00	1.80	1.80	1.60	1.60	1.40	1.40	1.20	1.20	1.00
1979	0	0	0	0	0	2.00	2.00	1.80	1.80	1.60	1.60	1.40	1.40	1.20	1.20
1980	0	0	0	0	0	0	2.00	2.00	1.80	1.80	1.60	1.60	1.40	1.40	1.20
1981	0	0	0	0	0	0	0	2.00	2.00	1.80	1.80	1.60	1.60	1.40	1.20
1982	0	0	0	0	0	0	0	0	2.00	2.00	1.80	1.80	1.60	1.40	1.40
1983	0	0	0	0	0	0	0	0	0	2.00	2.00	1.80	1.80	1.60	1.40
1984	0	0	0	0	0	0	0	0	0	0	2.00	2.00	1.80	1.80	1.60
1985	0	0	0	0	0	0	0	0	0	0	0	2.00	2.00	1.80	1.60
Total, annual production	20	20	22	21.80	23.60	23.20	24.80	24.20	25.60	24.80	26.00	25.00	22.00	20.80	13.60
Revenues: ²															
1974 and prior	4.20	3.96	6.45	5.75	5.77	5.06	5.07	4.36	4.37	3.65	3.66	2.94	2.21	2.22	0
1975 and thereafter	0	1.02	5.68	8.47	11.40	14.17	17.08	19.76	22.55	25.16	27.84	30.26	29.12	27.53	25.84
Total, annual revenues	4.20	4.98	12.13	14.22	17.17	19.23	22.14	24.13	26.95	28.81	31.50	33.20	31.33	29.74	25.84
Taxes: ³															
1974 and prior	0	0	1.58	1.41	1.42	1.25	1.25	1.08	1.09	.91	.91	.73	.55	.55	0
1975	-2.52	0	1.02	.95	.98	.89	.92	.83	.85	.75	.77	.66	.67	.66	.42
1976	0	-2.58	1.02	1.05	.97	1.00	.92	.84	.85	.87	.87	.79	.80	.80	.56
1977	-55	0	-2.65	1.05	1.08	1.00	1.03	.94	.97	.87	.89	.78	.80	.80	.57
1978	0	-56	0	-2.72	1.08	1.11	1.03	.96	.99	.89	.91	.80	.82	.82	.70
1979	0	0	-58	0	-2.78	1.11	1.14	1.05	1.08	.99	1.01	.91	.93	.95	.84
1980	0	0	0	-59	0	-2.85	1.13	1.17	1.08	1.11	1.13	1.04	.98	.95	.85
1981	0	0	0	0	-61	0	-2.92	1.16	1.20	1.10	1.13	1.03	1.06	.95	.85
1982	0	0	0	0	0	-62	0	-3.00	1.19	1.22	1.13	1.16	1.06	1.08	.97
1983	0	0	0	0	0	0	-64	0	-3.07	1.22	1.25	1.16	1.19	1.08	1.11
1984	0	0	0	0	0	0	0	-65	0	-3.15	1.25	1.28	1.18	1.21	1.10
1985	0	0	0	0	0	0	0	0	-67	0	-3.23	1.28	1.31	1.21	1.13
Total, taxes payable	-3.07	-3.15	0.40	1.16	2.14	2.89	3.86	4.58	5.52	6.88	7.79	11.72	11.15	10.60	9.44
Total, taxes as a percent of total revenue	-73.09	-63.18	3.29	8.13	12.47	15.03	17.45	19.00	20.50	23.89	24.72	35.31	35.60	35.63	36.55
net of royalties ⁴	-67.01	-75.22	3.92	9.68	14.85	17.89	20.77	22.62	24.40	28.44	29.43	42.04	42.38	42.42	43.51

¹ Rates of take on wells drilled in 1974 or earlier are assumed to follow the well rate of take sequence used in opinion 770's OEC model, with 1974 as the 2d year of production in the sequence. Total initial reserves are assumed to be 200 units.

² Rates of take on wells drilled in 1975 or thereafter are assumed to follow the well rate of take sequence used in opinion 770's OEC model, which are: 0.1, 0.1, 0.09, 0.09, 0.08, 0.08, 0.07, 0.07, 0.06, 0.06, 0.05, 0.05, 0.04, 0.03, 0.03. Incremental reserve additions are assumed at 20 units per year.

³ Prices for 1974 and prior gas are 21¢ in 1974; 22¢ in 1975 and 35.85¢ in 1976 and increasing by 0.1¢ per year thereafter; the last prices are a weighted average of 29.5¢ on pre-Jan. 1, 1973, gas (opinion 749) and \$0.93 plus 1¢ per annum on 1973-74 biennium gas, with weights of 0.9 and 0.1, respectively.

⁴ The prices of 1975 and thereafter gas are 51¢ in 1975 and 1.42 in 1976, escalating at 4¢ per annum thereafter.

⁵ The taxes on 1974 and prior gas are 8.80¢ per unit escalating at 0.0403¢ per year, which is a weighted average of 6.08¢ (opinion 749) on pre-Jan. 1, 1973, gas at a weight of 0.9 and 33.30¢ plus 0.4032¢ per year escalator (opinion 770) on post-Jan. 1, 1973 gas with a weight of 0.1, applied to gas production from these wells in 1976 and thereafter.

⁶ Taxes on 1975 and thereafter gas are computed per opinion 770 using a 2.5-pct inflation rate on all costs and tax savings (which corresponds to the 4¢ per year escalator on a base price of \$1.42). 1975 taxes are assumed zero since the 770 rates were not effective then.

⁷ Royalties are taken as 16 pct of gross revenues, per opinion 770.

(1) First it is important to note that we have assumed future exploratory and drilling activities sufficient to increase the production rate for the producer through 1984. This is perhaps optimistic, but a lower rate of exploratory activity will result in lower intangible and other expense items and consequent higher taxes paid in the early years.

(2) The second consideration is that for the years 1974 and 1975, the total taxes paid are negative, implying that the price-cost structure in place at that time would result in a 15 percent rate of return for the average producer only if they were able to take advantage of their taxable losses in jurisdictional activities by offsetting them against taxable income from non-jurisdictional activities.

(3) It should also be noted that if the new prices were in effect throughout 1976 that this hypothetical producer would be paying some taxes in 1976, although most of the tax liability from flowing gas is

offset by the write-offs from exploratory and drilling activity that year.

(4) Further it should be noted that taxes paid increases steadily over time in absolute dollars and as a percentage of both gross and net (after royalty) revenue, with a dramatic increase when exploratory and drilling activity ceases. With very few operating expenses, taxes become almost 44% of net revenue once exploratory and drilling activity are stopped.

(5) Finally, and most particularly, it should be noted that if the projected 1977 tax deferrals of 2.72 and 0.59 had been used to lower the 1975-1976 gas price, they would be unavailable as tax-savings in computing the pre-production investment outlays for the 1977-1978 biennium gas. Referring to Exhibit 4, infra, if the tax savings of 17.14¢ per Mcf had not been available in the pricing of the 1975-1976 biennium gas, the cost-based price would have been 235¢ per Mcf, plus 4 cents per annum escalator.¹¹¹

While this hypothetical producer's pro forma statement is not meant to be predictive of the industry it does illustrate the complex tax effects that we have attempted to capture in Opinion No. 770.

APGA, NYPSC and Congressmen also argue that the Commission should consider the consolidated tax returns of producers in determining a tax allowance. They indicate that the tax losses of non-jurisdictional affiliates could result in actual tax savings for regulated companies. As support for their contention they cite *F.P.C. v United Gas Pipe Line Co.*, 386 U.S. 237 (1967). In that case the Supreme Court held that "in the proper circumstances the Commission has the power to reduce cost of service, and hence rates, based on the application of non-jurisdictional losses to jurisdictional income." (emphasis added) 386 U.S. at 245.

The Court was again confronted with the question of consolidated tax returns in *F.P.C. v United Gas Pipe Line Co.*, 393 U.S. 71 (1968). In that Opinion, the

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Court indicated that tax losses from non-jurisdictional activities should first be allocated to reduce taxable income from other nonjurisdictional operations and that jurisdictional rates should be reduced only when there was a net tax loss from all nonjurisdictional operations.

The Commission reconsidered the United issue in Florida Gas Transmission Co., 47 FPC 341 (1972), reh. denied 49 FPC 261 (1973), and Natural Gas Pipeline Co., 50 FPC 789 (1973). In Florida Gas, the Commission held that "a utility should be regulated on the basis of its being an independent entity; that is a utility should be considered as nearly as possible on its own merits and not on those of its affiliates." 47 FPC at 363. This holding was followed in Natural Gas Pipeline, wherein the Commission found that tax losses of affiliates should not be used as a mechanism to reduce rates because that would probably tend to discourage exploration and development. 50 FPC at 790.

Here we find it necessary to view natural gas production as an independent entity to avoid creating the disincentives alluded to in Natural Gas Pipeline. Furthermore, if any tax losses from non-jurisdictional activities are to be first allocated to offset non-jurisdictional profits, we would be required to find that the overall petroleum industry has sufficient tax losses to offset all income from production, refining, and marketing petroleum products and any other related or unrelated business activity. There is no evidence to support such a conclusion, nor is it plausible.

Finally, APGA criticizes the Commission's failures to take into account foreign tax credits in prescribing the rates in Opinion No. 770.

In the Southern Louisiana I opinion,¹¹⁹ the Commission made several references to the foreign tax credit and implicitly suggested that it partially justified the decision not to include an income tax component in the rates. However, the Internal Revenue Code Section 904 has provided that the amount of the tax credit shall not be greater in relation to the tax paid than the proportion the foreign country taxable income bore to total taxable income,¹²⁰ thus leaving little avenue for "spill-over" of the foreign tax credit to U.S. source income. Prior to 1975, the foreign tax credit to some extent could "spill-over" into domestic income where the producer for example had operations in two or more countries and the producer elected to utilize the "per-country" option to compute the tax credit. As is explained in a recent House Ways and Means Committee report:

"... (where) the limitation is computed separately for each foreign country, losses in any foreign country do not have the effect of reducing the amount of credits allowed for taxes paid in other foreign countries from which other income was derived. Instead, such losses reduce U.S. taxes on U.S. source income by decreasing the world wide taxable income on which the U.S. tax is based."¹²¹

However, with respect to "foreign oil related" income the Tax Reduction Act of

1975 abolished the "per-country" option and required the computation of the foreign tax credit for such income on an overall or world-wide basis.¹²² Thus, if foreign operations produce overall no net U.S. taxable income, no foreign tax credit is allowed. Also, the 1975 Act limited the amount of creditable (or deductible) foreign tax to approximately 50% of U.S. taxable foreign income.

The Conference Report states:

The conference substitute "... applies a strict limitation on the use of foreign tax credits from foreign oil extraction income and foreign oil related income ... Any excess credits within the respective percentage limitations are to be allowed to offset U.S. tax only against foreign related income."¹²³

Finally, the 1975 Act further reduced the potential impact of foreign operating losses on U.S. income by providing that the losses will be "recaptured" in future profitable years by reduction of the foreign tax credit. There, the foreign operations of petroleum have little potential for reducing taxes on U.S. source income such as domestic natural gas production.

For the reasons set forth above, the arguments of those parties objecting to the Commission's treatment of income taxes in Opinion No. 770 are hereby rejected.

I. ROYALTY

IPR, in its application for rehearing, argues that the 16% royalty allowance in Opinion No. 770 is below that which the evidence in this proceeding justifies. IPR also asks that the Commission permit the flow-through of royalty costs in excess of the 16% allowed herein, subject to later review to determine the reasonableness of such higher royalty. IPR's argument and its request for flow-through are both denied.

In Opinion No. 770, we clearly stated the basis for the 16% royalty allowance at page 87 where we found:

The basis for this determination is our belief that the lower onshore royalty expense tends to reduce slightly that royalty expense incurred offshore. The Commission prices gas for a particular well either from the date the drilling or the sales commence, which is an approach that give no consideration to the age of the lease that is being drilled. In view of the fact that many new onshore wells are drilled on existing leases which traditionally append only 1/2 royalty (12 1/2 %), it is reasonable to believe that the federal offshore royalty of 16 2/3 % is mitigated by the lower onshore rate.

With respect to the request of IPR that flowthrough of higher royalties be allowed, the Commission in Opinion No. 753¹²⁴ affirmed the Administrative Law Judge's initial decision not to allow an automatic flowthrough of higher royalties.

Similarly, here, we reject the automatic flowthrough of "market value" determinations for royalty gas. Producers will be required to show that any proposed royalty based either on a percentage above the 16% rate used herein or the rate level established in this Opinion is just and reasonable on an individual cost-of-service basis for the properties involved. This will satisfy our intention that rates be found to be just

and reasonable based upon approved cost components.

J. ESCALATION

IPR and UDC, in their applications for rehearing and in oral argument assert that the initial rate reduction resulting from the use of a 4-cent annual escalator in the present value price-setting calculus "is to reduce the initial price 21¢ per Mcf below the true yield price at a 14.16 percent computational rate of return." While the initial price is reduced, under the escalator provisions that price will rise 4¢ per year, so that by 1986 the price will be 182¢ per Mcf and not 161¢. The price calculus is such that a producer will earn the full computational 14.16 percent rate of return on investment with these escalations.

There is no foundation to the IPR assertions that "to assume that the escalations will be maintained for the full productive life of the properties is simply a speculation and should not be used to reduce the initial price below the costs founded by the Commission." The Commission specifically stated that "the revenue stream with the escalator has the same present value as it would with a level price." Further we said:

"In using an escalator, we are committed to permit the price of gas from wells drilled during the current biennium to escalate by at least the amount chose here or its comparable present value so as to provide a 15% rate of return on investment. We therefore find that the escalator is an integral part of this rate."¹²⁵ (emphasis added).

¹²⁵ See, opinion No. 770, — FPC —, mimeo p. 88.

These escalations, or their present value equivalent, are assured.

It is important to understand the logic underlying the use of a lower initial price and an escalator in this new gas price structure. As we have indicated, the present value of the revenues resulting from the \$1.42 rate, escalating at one cent per quarter, is equal to the present value of the revenues at a level rate of \$1.61 per Mcf over the projected 15-year life of a well. Rather than allowing a constant rate of \$1.61, which might appear too high in 1976 and too low in 1991, we have determined that a lower initial rate with proper escalation is in the public interest.

First, in subsequent biennial reviews, the Commission will be setting new rates which are likely to be higher because of inflation in the costs of exploring for and producing new supplies of gas. We believe that by starting the 1975-1976 biennium gas rate at a lower initial level and allowing it to escalate, we may be able to avoid still another vintaged rate for 1977-1978 gas that is different from the 1975-1976 rate. This will occur if the 1975-1976 rate has escalated by that time to the starting rate for the 1977-1978 biennium gas.

Secondly, we must ensure that the rate of return used to compute the price for 1975-1976 biennium gas is not excessive. If exploration and development costs for producing natural gas continue to rise, the rate established in the next biennial review will have to be higher. If at that time a separate vintaged rate for the

Footnotes at end of document.

1975-1976 gas is deemed undesirable, and such gas is made eligible for the higher rate established in the next biennial review, then an excessive return on the 1975-1976 gas could be realized. To guard against that occurrence, a lower initial rate (\$1.42), escalating at a rate that we hope will track future inflated exploration and development costs¹¹⁸, will maintain the 14.16 percent computational rate of return used herein.

Finally, the use of an escalator helps ease the impact of the rate increase upon the consumer without affecting the net present value of the new rate structure to the producer. The Commission has a responsibility to minimize severe and harmful economic dislocation due to increased rates.¹¹⁹ Because of the administrative delays experienced in prescribing the new national rates, the rate increase without the escalation adjustment appears inordinately high. Reducing that initial rate and permitting escalation will ease the burden of the substantial price increase, but will also ensure a just and reasonable rate for the producer.

EXHIBIT 4.—Cost summary and tax treatment for 699-H model at 300 productivity

(1) Component	(2) Gross value	(3) Percent expensed	(4) Expensed amount	(5) Tax reduction from expensing	(6) Net cash flow	(7) Time
Working capital.....	1.33	0	0	0	1.33	-3
Exploratory other.....	4.73	95	4.49	2.16	2.57	-3
Exploratory O/H.....	1.71	95	1.62	.78	.93	-3
Lease acquisition.....	14.13	0	0	0	14.13	-2
Nonproducing lease expensed.....	0	75	10.60	5.09	(5.09)	-1
Dry hole.....	8.12	100	8.12	3.90	4.22	-1
Successful well.....	12.84	70	8.99	4.31	8.53	-1
Production facilities.....	3.44	0	0	0	3.44	-1
Reclamation.....	.50	70	.35	.17	.33	-1
Investment tax credit.....	0	0	0	.73	(.73)	-1
Working capital recovery.....	(1.33)	0	0	0	(1.33)	14
Total.....	45.47		34.17	17.14	28.33	

NOTE.—Depreciable or depletable assets equals 45.47 minus 34.17 equals 11.30. Investment tax credit equals .10 times [(12.84 minus 8.99) plus 3.44] equals .73. Present value at time 0 of net cash flows at 14.16 percent equals 37.62. Present value at time 0 of net cash flow at 14.16 percent allocated to natural gas production equals .91 times 37.62 equals 34.23. (4) = (2) × (3). (5) = (4) × .48. (6) = (2) - (5).

EXHIBIT 5

Cash flow from sales (¢/Mcf) at 300 Mcf productivity:	
Price.....	P
Royalty.....	.16P
Net revenue.....	.84P
Less:	
Operating expenses, 3.10	
X .91 =	2.82
Regulatory expenses,	
0.10 X .91 =	.09
Depreciation,	
11.30 X .91 =	10.28
Total.....	13.19
Income Before	.84P - 13.19
Taxes @ 48 percent	.4032P - 6.86
Net income.....	.4368P - 6.86
Add: depreciation	10.28
After-Tax cash flow	.4368P + 3.42

EXHIBIT 6

Price determination:	
$\frac{1}{15} \times 6.9562 \times (.4368P + 3.42) = 34.23$	
or	P = 161.16
Taxes paid (net):	
In the pre-production period ¹	(15.60)
In the production period ²	58.65
Net ³	43.05
Price breakdown:	
Price.....	161.16
Royalty (16 percent).....	25.79
Total operating expense.....	2.91
Taxes (net).....	43.05
Return of investment.....	41.38
Return on investment.....	48.03

¹ Exhibit 4, Total, Column 5, × .91.

² From Exhibit 5:

Taxes = .4032P - 6.83

Taxes = .4032 (161.16) - 6.83

Taxes = 58.65.

³ There is an error in Exhibit 30 of Opinion 770. The investment tax credit was inadvertently omitted in that reconciliation's net tax computation.

IV. THE RATE DETERMINATION: 1973-1974 BIENNIAL GAS

In Opinion No. 770, we determined that the \$1.42 rate established for post-December 31, 1974 gas should not apply to the 1973-1974 biennial gas, but that a separate rate determination was necessary to reflect the actual cost and productivity data gathered for the period from January 1, 1973 to December 31, 1974, and to reflect the proper treatment of income taxes.¹²⁰

APGA, NYPSC, Congressmen and SDPUC argue that the \$1.01 rate for 1973-1974 biennial gas is subject to the same deficiencies that they allege exist in the \$1.42 rate. They object to the continuance of the 3.89 cent liquid credit, and argue that the 1973-1974 wells have already been drilled and, as such, that producers' costs are imbedded. Finally, they argue that the repricing of this gas to the \$1.01 level will not result in greater gas production and, therefore, is contrary to the public interest.

IPR, on the other hand, argues that the \$1.01 rate for 1973-1974 biennial gas is understated. IPR objects to the Commission's productivity calculation, in particular, and to the other cost components generally. IPR and several other parties also object to the Commission's failure to include an annual escalator to be added to the rate established for 1973-1974 biennial gas.

Upon review of cost analysis used in determining the \$1.01 rate, we have discovered several errors, some of which were properly recognized by the parties in their applications for rehearing. Using the same timing of cash outflows and inflows as used in the discounted cash flow analysis in Opinion No. 699-H,¹²¹ we will examine each of the cost elements underlying our rate determination separately.

A. PRODUCTIVITY

In Opinion No. 699, the Commission relied upon reserve additions for a ten-year period (1963-1972) to compute the low end of the reasonable cost range and a seven-year period (1966-1972) to compute the high end of this range. The ten-year average resulted in a productivity factor of 552 Mcf per foot drilled while the seven-year period resulted in a productivity factor of 485 Mcf per foot drilled. The Commission ultimately employed the productivity factor of 485 Mcf per foot of successful well drilled in order to reflect the downward trend in productivity and to insure that the rate derived from the cost was sufficient to encourage the exploration and development of more marginal wells.

We now have the actual AGA reserve data and API drilling data for the 1973-1974 biennial which was not relied upon in that proceeding.¹²² In Opinion No. 770, we determined that the productivity estimate in Opinion No. 699-H should be updated to reflect the actual productivity experience for those years. Accordingly,

Footnotes at end of document.

reserves added and footage drilled for 1973 and 1974 were added to the seven-year series used in Opinion Nos. 699, et seq. The nine-year period is within the seven to ten year range¹²³ utilized in Opinion No. 699; the resultant productivity is 373 Mcf per foot.

B. DRILLING COSTS

In Opinion No. 669-H, trended drilling costs for 1973 were developed from a least squares analysis of actual per foot drilling costs for successful wells and dry holes for 1963 through 1972. This technique resulted in a trended successful well cost of \$29.83 per foot and a trended dry hole cost of \$16.69 per foot. Subsequently, actual data for 1973 revealed that the linear regression line predicted dry hole costs too low and successful well costs too high.

The actual 1973 successful well cost reported by JAS was \$27.43 per foot, and the actual 1973 dry hole cost was \$18.93 per foot. The actual 1974 successful well cost was \$34.00 per foot, an increase of approximately 24% over 1973, while the actual 1974 dry hole cost was \$26.27 per foot, an increase of approximately 39% over 1973.

In Opinion No. 770, we determined that these actual costs should be averaged to compute the appropriate drilling cost for the 1973-1974 biennium. The average successful well cost was \$30.71 per foot and the average dry hole cost was \$22.60 per foot. We again use these average drilling costs in making the cost computations herein.

Dividing the average successful well cost (\$30.71) by the 373 Mcf per foot productivity factor yields a successful well cost component of 8.23 cents per Mcf. Multiplying the average dry hole cost (\$22.60) by the 1.08 deeper drilling factor and then dividing by the 373 productivity factor¹²⁴ yields a dry hole cost component of 6.54 cents per Mcf.

C. OTHER PRODUCTION FACILITIES

In Opinion No. 699-H, the other production facilities cost component was calculated by multiplying the successful well cost by the ratio of national other production facilities costs divided by national successful well costs. That ratio was 0.226. In Opinion No. 770, however, we determined that incomplete production facilities should be considered in developing the ratio, and thus found the proper ratio to be 0.268.

As pointed out by IPR, in computing the 1973-1974 biennium rate, we erroneously based the other production facilities cost component on the trended successful well cost in Opinion No. 699-H (\$29.83), rather than on the average successful well cost for 1973-1974 (\$30.71). Using the proper 0.268 ratio and the 373 Mcf per foot productivity factor, the corrected other production facilities cost component is 2.21 cents per Mcf.

D. OTHER EXPLORATION

In Opinion No. 699-H, the other exploration cost component was calculated

by multiplying the lease acquisition cost component by the ratio of national other exploration costs for the period 1968 to 1972 divided by lease acquisition costs for the period 1968 to 1972, to determine a ratio of 0.6546. In Opinion No. 770, however, we determined that a relationship based upon successful well costs, rather than lease acquisition costs, would be more stable. This ratio was estimated to be .368 in Opinion No. 770 when adjusted for the time differences of the two activities.¹²⁵ Using this ratio and the corrected successful well cost component (8.23 cents), the corrected other exploration cost component is 3.03 cents per Mcf.

E. EXPLORATORY OVERHEAD

In Opinion No. 699-H, the exploration overhead cost component was calculated by multiplying the sum of the dry hole and other exploration costs by the ratio of national exploratory overhead costs divided by the sum of national dry hole and other exploratory costs, using the average of JAS data for 1968 to 1972. This yielded an average ratio of 0.127. Updating the ratio to include 1973-74 results in a ratio of .133.¹²⁶ Using this ratio with the dry hole cost component (6.54 cents) and the corrected other exploration cost component (3.03 cents), the corrected exploratory overhead cost component is 1.27 cents per Mcf.

F. LEASE ACQUISITION

In Opinion No. 699-H, the lease acquisition cost component was calculated by multiplying the successful well cost by the ratio of national lease acquisition costs divided by national successful well costs. There lease acquisition costs from 1968 to 1972 were divided by successful well costs for the same time period to yield a ratio of 0.6957.

IPR, in its application for rehearing, argues that the proper ratio for determining the lease acquisition cost component would be to average only the 1973-1974 lease acquisition and successful well costs, which yields a ratio of 1.97. It is not necessary to use the 1973-1974 data in this computation, due to the lag-time involved in lease acquisition expenditures.¹²⁷ Accordingly, the 1967-72 ratio of .67¹²⁸ will be multiplied by the successful well cost (8.23) to yield a lease acquisition cost component of 5.51 cents per Mcf.

G. RECOMPLETION

In Opinion No. 699-H, the recompletion component was set at .20 cents per Mcf based upon the cost studies submitted by the parties in that proceeding. We will continue to use the .20 cents per Mcf allowance in this analysis.

H. OPERATING EXPENSES AND REGULATORY EXPENSES

In Opinion No. 699-H, the operating expense was set at 3.10 cents per Mcf. That figure was reconfirmed by data from Docket No. R-478.¹²⁹ Therefore, we will continue to use the 3.10 cents per Mcf allowance in this analysis.

In Opinion No. 699-H, the Commission adopted .20 cents per Mcf as the al-

lowance for regulatory expense. We will continue to use the .20 cents per Mcf allowance.

I. WORKING CAPITAL

In Opinion No. 699-H, the working capital cost component was derived from the traditional utility working capital formulas which are based upon a 45-day collection period (the $\frac{1}{8}$ factor=45 days/360 days).¹³⁰ This method allows a return on the sum of materials and supplies and prepayments plus $\frac{1}{8}$ of production and exploration operating expenses. In addition, an allowance for "lease play" was included at 1.5 times the lease acquisition cost. Using the same factors that were used in Opinion No. 699-H, which were derived from the data in Docket No. AR69-1,¹³¹ but updating the cost components, as computed herein, we obtain the working capital needed to produce 1 Mcf per year as:

$$[(10.84^{132} \times 1.336^{133} + 3.10^{134} \times 1.689^{135}) \times 0.125 + (1.5 \times 5.51^{136})] = 10.73 \text{ cents}$$

Since we are assuming production over 15 years, one-fifteenth of the above figure is appropriate. Working capital is $1/15 \times 10.73 = .72$.

J. COST ALLOCATION TO LIQUIDS

NYSPC, APGA and others argue that the allocation of cost to liquids for the 1973-74 biennium gas should be updated. We erred in applying the liquid credit approach in Opinion No. 770's 1973-74 vintage gas pricing. Rather, the investment outlays and costs should have been allocated between gas and liquids. We shall do so here by applying the same modified Btu cost allocation factor as used in the current biennium: 9% of the costs will be assigned to liquid production and 91% of the costs will be allocated to natural gas.

K. DEPLETION PERIODS

In Opinion No. 699, the Commission reflected the declining depletion periods by adopting an 18-year period, noting that it might be "somewhat overstated."¹³⁷ In Opinion No. 770, we determined that all the available evidence established the necessity to reduce the assumed well-depletion period from the 18-year period to a 15-year period.¹³⁸ Contrary to NYSPC's apparent misunderstanding of Opinion No. 770, a 15-year well-depletion period was used therein to compute the separate rate for 1973-1974 biennium gas.¹³⁹ We will continue to use that 15-year period in this analysis.

L. RATE OF RETURN AND ROYALTY

In Opinion No. 699, the Commission decided that a 15% rate of return was comparable to the returns earned by other extractive industries, utility companies, industrial concerns, and the overall earnings of large integrated producers and firms predominantly devoted to production.¹⁴⁰ The Commission therein also decided that an allowance of 16% was appropriate to reflect increased royalty expenses.¹⁴¹ In Opinion No. 770 and here, the Commission has made the same determinations but has adjusted the overall

rate of return to reflect the tax-deductibility of interest, resulting in a "computational" discount rate of 14.16%.¹⁴²

M. FEDERAL INCOME TAXES

In Opinion No. 699-H, the Commission applied a negative income tax component in the DCF analysis to reflect income tax savings resulting from, inter alia, the expensing of intangible drilling costs (IDC) in the pre-production period. While an income tax liability was included in the DCF analysis to the limited extent of offsetting the aforementioned tax credits, that tax treatment is no longer deemed tenable.

Although the Court upheld this tax treatment in *Shell Oil Co. v. FPC, supra*, the Commission staff, in its recommendations filed in this proceeding, recognized the inequity of this treatment and, accordingly, recommended its termination.¹⁴³ This inequity is very apparent since it would be unfair to reduce investment in the DCF analysis by "tax savings" when taxes were limited to the extent of the savings previously incurred.

In Opinion No. 770, the Commission concluded that repeal of percentage depletion and the proper treatment of IDC would permit the calculation of an income tax component. This is explained in greater detail earlier in this opinion. In computing the rate for 1973-1974 biennium gas in Opinion No. 770, the same 48% income tax allowance was made.¹⁴⁴ We will continue that treatment in this analysis. We also apply a 7% investment tax credit, which was the rate applicable at that time.

N. ESCALATION

IPR, INGAA and several other parties object to the Commission's failure to provide a periodic escalation of the price established for the 1973-1974 biennium. They argue that there is an inconsistency in our pricing with a 1¢ per year escalator on roll-over contracts and a 1¢ per quarter escalator on post 12/31/74 gas, but no escalator on the 1973-74 vintage gas. The present value price-determining calculus is entirely consistent for all three rates. While the escalator was incorporated in the present value calculations in the determinations of both the Opinion No. 699-H rate and the 1975-76

biennium rate in Opinion No. 770, no escalator was calculated as part of Opinion No. 770's 1973-74 biennium rate determination.¹⁴⁵

The use of an escalator helps ease the impact of any rate increase without affecting the net present value of the new rate structure to the producer. Thus, in order to ease the impact of the substantial price increase which we deem just and reasonable, and to provide rate structure symmetry, we hereby modify our initial treatment of the 1973-74 biennium gas price to allow for an escalator of 1¢ per annum. Since we are recomputing the rate as though we were at time zero (1973), the base price resulting therefrom would have escalated by 3¢ by 1976. Thus, the effective price for the 1973-74 biennium gas in 1976 (93.4 cents per Mcf) is 3¢ over the base price (90.4 cents per Mcf) with subsequent prices increasing 1¢ per annum effective each January 1.

O. PRICE DETERMINATION

The cost component derivations are displayed in Exhibits 7, 8 and 9. Equating the present value of the cost items to the present value of the revenue stream, we find a base (1973) price of

$$1/15 \times (6.9562) \times (.4368P + 1.20) + .948 = 19.81$$

or

$$P = 90.4 \text{ cents per Mcf}$$

escalating at 1¢ per year, making the 1976 effective price 93¢ per Mcf.

EXHIBIT 7.—Cost Components for 1973-74 Vintage Gas

(In cents per million cubic feet)

Successful wells.....	8.23	30.71 + 373.
Recompletion.....	.20	Opinion No. 662.
Lease acquisition.....	5.51	8.23 × 0.67.
Other production facilities.....	2.21	8.23 × 0.268.
Subtotal.....	16.15	
Dry holes.....	6.54	22.60 × 1.08 + 373.
Other exploration.....	3.03	8.23 × 0.368.
Exploration overhead.....	1.27	(6.54 + 3.03) × 0.133.
Subtotal.....	10.84	
Operating expense.....	3.10	
Regulatory expense.....	.20	
Working capital.....	.72	[(10.84 × 1.336) + (3.10 × 1.689)] 0.125 + (5.51 × 1.5) / 15.

NOTE.—Computational rate of return 14.16 pct.

EXHIBIT 8.—Cost summary and tax treatment for 1973-74 vintage gas

(Cents per thousand cubic feet)

(1) Component	(2) Gross value	(3) Percent expensed	(4) Expensed amount	(5) Tax reduction from expensing	(6) Net cash flow	(7) Time
Working capital.....	.72	0	0	0	.72	-3
Exploratory other.....	3.03	95	2.88	1.38	1.65	-3
Exploratory O/H.....	1.27	95	1.21	.58	.69	-3
Lease acquisition.....	5.51	0	0	0	5.51	-2
Nonproducing lease expensed.....	0	75	4.13	1.98	(1.98)	-1
Dry hole.....	6.54	100	6.54	3.14	3.40	-1
Successful well.....	8.23	70	5.76	2.77	5.46	-1
Production facilities.....	2.21	0	0	0	2.21	-1
Recompletion.....	.20	70	.14	.07	.13	-1
Investment tax credit.....	0	0	0	.33	(.33)	-1
Working capital recovery.....	(.72)	0	0	0	(.72)	14
Total.....	26.99		20.66	9.72	16.15	

NOTE.—Depreciable or depletable assets 26.99 minus 20.66 equals 6.33. Investment tax credit equals .07 times [(8.23 minus 5.76) plus 2.21] equals .33. Present value at time 0 of net cash flows equals 21.77. Present value at time 0 of net cash flows allocated to natural gas production equals .91 times 21.77 equals 19.81.

Footnotes at end of document.

EXHIBIT 9.—Cashflow From Sales for 1973-74 Vintage Gas

(In cents per million cubic feet)

	Price=90.4¢
Royalty.....	0.16
Net revenue.....	.84
Less:	
Operating expenses.....	3.10 × 0.91 = 2.82
Regulatory expenses.....	0.20 × 0.91 = .18
Depreciation.....	6.33 × 0.91 = 5.76
Income before taxes.....	.84 - 8.76
Taxes at 48 pct.....	.4032 - 4.20
Net income.....	.4368 - 4.56
Add: Depreciation.....	+5.76
After tax cash flow.....	.4368 + 1.20

NOTE.—Price determination: 1/15 (6.9562) (0.4368P + 1.20) + 0.948 = 19.81.

P. SUMMARY

Having corrected the costing errors in the rate determination for 1973-1974 biennium gas, it is necessary to consider the effect which the 93¢ rate with a 1¢ escalator might have on eliciting new supplies of gas. APGA and others argue that the repricing of this gas will not result in greater gas production. We believe that this assumption is incorrect. While we agree that the rate applies to a fixed category of gas (1973-1974 biennium gas), the rate increase is necessary because of the change in the tax laws and increased costs. In addition, the rate increase will provide both the incentive to maximize ultimate recovery of the qualifying gas reserves and some additional capital for expanded exploration and development programs.

As we have demonstrated earlier, the Opinion No. 699-H price adjusted only for the change in tax treatment is 83¢ per Mcf.¹⁴⁶ Thus, our cost adjustments are minor by comparison. The reduction from the 101¢ in Opinion No. 770 to the 93¢ plus 1¢ per annum escalation determined herein is largely attributable to the use of liquid cost allocation rather than the liquid credit approach, and the inclusion of the 1¢ per annum escalator.

The \$.93 rate will be effective as of the date of the issuance of Opinion No. 770, July 27, 1976, escalating at 1¢ per year beginning January 1, 1977. We reject the suggestion of IPR that the rate should have been retroactive. We admit that the rates prescribed herein were delayed by "regulatory lag"; however, the delay in setting the price at 93¢ should have little effect on the producer's ability to earn an overall 15% rate of return, especially since depletion was available until July 1, 1976.

In accordance with the Commission's order of August 13, 1976,¹⁴⁷ requiring refunds of any rates collected over and above those ultimately prescribed in this proceeding, we will require any producers, other than those holding small producer certificates, to refund to their purchasers any amounts collected over the \$.93 per Mcf rate, plus any adjustments thereto, for any sales of 1973-1974 biennium gas. With respect to those producers holding small producer certificates, they will be required to refund to their customers any amounts collected in excess of 130% of the \$.93 per Mcf base

rate, plus any adjustments thereto, for any sales of 1973-1974 biennial gas, in accordance with Opinion Nos. 742, et seq.

V. NON-COST FACTORS

APGA argues that the \$1.42 rate established in Opinion No. 770 was set at the unregulated level of intrastate gas, and, in some cases, above that level and above the commodity values of certain substitutable fuels. APGA further argues that the \$1.42 rate is not based on costs and, therefore, is unlawful. IPR, INGAA and Mountain Fuel Supply Company (Mountain Fuel) on the other hand, argue that the Commission has not adequately considered intrastate prices and the commodity values of substitute fuels. Both of these arguments are incorrect.

Opinion No. 770 uses the discounted cash flow analysis of Opinion No. 699-H in computing the costs for the post-December 31, 1974 gas. That analysis was upheld by the Court in *Shell Oil Co. v. F.P.C.*, supra, where the Court found:

The Commission's long and often judicially approved practice of basing rates on cost carriers a substantial presumption of validity which places a heavy burden on those who would refute it. (520 F.2d, at 1084)

The Supreme Court in *Mobil Oil Corporation v. F.P.C.*, 417 U.S. 283, 301 (1974), stated that the Natural Gas Act provides for the setting of rates equal to the utilities' cost of service including a reasonable rate of return. However, the Court noted that the Commission, in its deliberations under the Act, was not limited only to the concept of cost plus a reasonable rate of return.¹⁴⁸ There is no question that the Commission is required to consider noncost factors in reaching a rate determination. This was made clear by the Supreme Court in *In Re Permian Basin Area Rate Cases*, 390 U.S. 747 (1968), where the Court said:

Cost and noncost factors do not, as the Court of Appeals supposed, race one against the other; they must be, as they are here, harnessed side by side. The Commission's responsibilities necessarily oblige it to give continuing attention to values that may be reflected only imperfectly by producers' costs; a regulatory method that excluded as immaterial all but current or projected costs could not properly serve the consumer interests placed under the Commission's protection. (390 U.S. at 815)

Similarly, in affirming the Commission's decision in the Southern Louisiana Area Rate Cases (Austral), the Court of Appeals found that the need for dramatically increased production justified the inclusion of non-cost elements that reflect the Commission's assessment of the need to use price as a tool to influence such production. *Southern Louisiana Area Rate Cases v. F.P.C.*, 428 F.2d 407 (5th Cir. 1970).

As we indicated in Opinion No. 770, the most recent decision of the Supreme Court with respect to non-cost factors in a rate determination, occurred in *F.P.C. v. Conway Corp.*, 44 U.S.L.W. 4777 (June 7, 1976). There the Court found that the Commission must consider nonjurisdic-

tional retail rate consequences in establishing wholesale rates for jurisdictional electric utilities. The Court noted that "consideration of the relationship between jurisdictional and non-jurisdictional rate structures is commonplace and is nothing more than is required by *Colorado Interstate Co. v. F.P.C.* 324 U.S. 581 (1945)."

In prescribing the rates in Opinion No. 770, the Commission used cost-based evidence to support a just and reasonable rate and went on to consider the relationship of cost to such non-cost factors as intrastate prices, commodity values, inflationary impact, and supply and demand effects.¹⁴⁹ The Commission has pursued its traditional cost-based methodology, i.e. that costs must form the fundamental basis of the rates, and that where non-cost factors are used, they constitute additional reasons supporting a just and reasonable rate. *City of Detroit v. F.P.C.*, 230 F.2d 810 (1955), cert. denied sub nom., *Panhandle Eastern Pipeline Co. v. City of Detroit*, 352 U.S. 829 (1956). Here the Commission reviews and updates the non-cost factors examined in Opinion No. 770 to ensure justness and reasonableness.

A. INTRASTATE AND COMMODITY VALUES

With respect to the actual intrastate prices, the cost-based price of \$1.42 per Mcf does not appear to be unreasonable. During the first six months of 1975, the average price for intrastate sales under new contracts was \$1.26 per Mcf, and the average price under renegotiated contracts was \$1.42 per Mcf. During the last six months of 1975, the average intrastate price under new contracts was \$1.29 per Mcf, and the average price under renegotiated contracts was \$1.46 per Mcf. A sizable increase was experienced in the first quarter of 1976, when the average intrastate price under new contracts climbed to \$1.55 per Mcf, and the average price under renegotiated contracts climbed to \$1.78 per Mcf.¹⁵⁰ During the second quarter of 1976, the average intrastate price under new contracts increased to \$1.59 per Mcf, although the average price under renegotiated contracts decreased to \$1.66 per Mcf. While some intrastate gas contract prices for 1975 and 1976 are below the \$1.42 rate established in Opinion No. 770, the majority of intrastate contract prices are above that rate. In any event, when the \$1.42 cost-based rate established in Opinion No. 770 is considered in relation to the intrastate prices for 1975 and 1976, it is clear that such rate is not unjust or unreasonable.

With respect to the commodity values of substitute fuels, the average wellhead equivalency price paid by electric utilities for residual (No. 6) fuel oil sold under contract during the twelve months ending January 1976, was \$1.37 per Mcf equivalent.¹⁵¹ The recent spot prices for the same residual (No. 6) fuel oil in June of 1976 averaged \$1.31 per Mcf equivalent.¹⁵² The recent spot prices for cleaner burning No. 2 distillate, however, in June of 1976 averaged \$1.57 per Mcf equivalent.¹⁵³

While the No. 6 residual fuel oil prices are lower than the \$1.42 rate, it must be remembered that No. 2 distillate is a cleaner-burning fuel and, therefore, is better when compared with natural gas. At the same time, it is important to note that the FEA's \$11.40 per barrel upper tier price for oil at the wellhead in early 1976 translates to a wellhead equivalency value of \$1.67 per Mcf;¹⁵⁴ but this is an upper tier price. Stripper well oil prices were recently decontrolled and recent posted prices are substantially above this upper tier price. Again, after review of these commodity values, it cannot be said that the \$1.42 per Mcf cost-based rate is unreasonable.

B. USE OF ALTERNATIVE FUELS

In discussing the equivalency value of substitute fuels, it is necessary to examine the cost to consumers of using alternative fuels if sufficient supplies of gas are not forthcoming. While we recognize that the prices established by the OPEC cartel for imported oil are not cost-based in the traditional sense, the reality of our Nation's current dependence on that fuel must be considered in any determination involving domestic fuel supplies. Imported and some domestic stripper oil is currently selling at a Btu equivalent price of \$2.25 or more per Mcf. If domestic natural gas production is not increased, even greater reliance will be placed on foreign energy sources, which in turn would tend to put upward pressure on foreign fuel prices.

In comparing the equivalent wellhead prices for domestic or foreign oil as a substitute for natural gas, it must also be remembered that these estimates do not reflect any costs for the conversion of facilities to make use of a different form of energy. The conversion costs to homeowners, commercial enterprises and industries would be substantial even if it were technically feasible for such persons to use another form of energy.

If the Nation is to rely upon foreign production of natural gas to supplement domestic shortfalls, the impact would be even more severe than that projected under Opinion No. 770. The Canadian National Energy Board has recently raised the export price for natural gas to the United States from \$1.60 per Mcf to \$1.80 per Mcf, effective September 10, 1976, and to \$1.94 Mcf, effective January 1, 1977.¹⁵⁵ Based upon the volume imported from Canada in 1974 (907 Bcf), these higher prices will affect approximately 7% of the total gas sold in interstate commerce. The cost of importing liquefied natural gas (LNG) is even greater. The delivered cost to the pipeline of LNG can be as high as \$3.24 per Mcf.

We, therefore, conclude that greater domestic production of natural gas, coupled with an adequate national conservation program, would result in a more moderate impact upon the consumer. The rate structure established herein is the best available means of establishing that end.

Footnotes at end of document.

C. INTERSTATE V. INTRASTATE SALES

The total volume of jurisdictional natural gas sold by domestic producers to interstate pipelines in 1973 was 12.9 Tcf. This figure decreased to 12.2 Tcf in 1974, and 11.4 Tcf in 1975. While intrastate volumes have also been declining, the intrastate market has been obtaining the

major share of reserve additions, as depicted in Exhibit 10.

If the price for natural gas sold in interstate commerce does not rise to compensate producers for higher costs and greater income tax liability, we would expect the depicted trend to continue, with almost all onshore gas being sold in the intrastate market and offshore gas not being developed expeditiously.

EXHIBIT 10.—Total reserve additions—Interstate v. Intrastate Associated and Non-associated Gas (Excludes Alaska)

Year:	AGA reserve additions excluding revisions Trillion cubic feet	Interstate new supply ¹		Inferred intrastate new supply ²	
		Trillion cubic feet	Percent	Trillion cubic feet	Percent
1966	14.8	10.0	68	4.8	32
1967	14.8	9.9	67	4.9	33
1968	9.8	6.4	65	3.4	35
1969	9.6	6.2	64	3.4	36
1970	11.3	3.5	31	7.8	69
1971	11.1	2.2	20	8.9	80
1972	10.7	5.0	47	5.7	53
1973	10.1	1.7	17	8.4	83
1974	9.7	2.4	25	7.3	75
1975	10.0	1.8	18	8.7	87

¹ Form 15, FPC, excluding revisions.

² Derived by assuming that intrastate reserve additions are equal to the difference between total AGA reserve additions and the reserve additions committed to the interstate market.

³ Preliminary.

D. EMERGENCY AND TEMPORARY SALES

Over the past two years, through June 30, 1976, sales of approximately 905 Bcf per year have been certificated by the Commission at the 52 cent level in Opinion No. 699-H. From September of 1974 to June 30, 1976, approximately 176 Bcf was sold by producers and intrastate pipelines to interstate pipelines as 60-day emergency sales. The average price for such sales was \$1.13 per Mcf.

The weighted average rate of 92¢ on newly approved sales during the first half of 1976 is much more indicative of the true price of gas than the 52¢ per Mcf rate commonly thought to be the operative rate:

Type of sale	Volume (billion cubic feet)	Average price (cents per million cubic feet)	Total revenue (millions)
Opinion 699	112.7	53.5	\$60,350
Optional pricing	46.8	144.0	67,408
Small producer	52.1	74.4	38,762
Limited term	13.7	63.8	8,735
6-day emergency	63.0	142.9	90,057
Total	288.3	92.0	265,312

Thus, the effect of our new rates on the price of gas is less than commonly perceived.

From these figures can be seen that a large fraction of the new annual sales approved by the Commission during this two-year period were 60-day emergency sales at a price well in excess of the 52 cents per Mcf established in Opinion No. 699-H. It is certainly not in the public interest for interstate gas supplies to depend upon such temporary emergency measures. Sound and effective policies must be established to guarantee these

Footnotes at end of document.

supplies. The rate structure established herein will go a long way in achieving that intended purpose.

E. ECONOMIC IMPACT

1. *Original Impact Analysis.* In Opinion No. 770, we estimated the dollar cost of the rates set therein at \$1.52 billion over the next 12 months. This estimate was derived from the following volumes:

Well commenced ¹	Volume (trillion cubic feet)	Price difference (cents per million cubic feet)	Dollar impact (billions)
1973-74	0.850	51.4	\$0.437
Jan. 1, 1975 to July 26, 1976	.750	\$95.9	.719
July 27, 1976 to July 26, 1977	.375	\$95.9	.360
Total			1.516

¹ See, opinion No. 770, — FPC —, p. D-12A.

² 151.5-55.6¢/M ft³. This includes average adjustments to base rates and the average escalator effect.

The projected production of 0.375 Tcf over the next 12 months was not a forecast of the effect of the new rates on future production, but was simply an extrapolation of the effect which the Opinion No. 699-H rate had on new dedications. The above-referenced estimated volumes under Opinion No. 770, however, were subsequently found to be below the actual volumes reported in producer and pipeline rate filings.

2. *Original Impact Errors.* One of the main reasons for the volumetric discrepancy was the Commission's incomplete data base. As previously indicated, a producer is only required to make a filing when it is first eligible for new rates. Once the eligibility for the new rate has been established, additional new wells or recompletions under the contract need not be reported to the Commission. While

staff made some ad hoc adjustments to contract and rate filing data received by the Commission over the past two years in an attempt to adjust for these unknown volumes, the resultant estimates were low when compared to the actual producer and pipeline filings under Opinion No. 770.

The second underlying reason for the volumetric discrepancy was the producers' misinterpretation of eligibility for the new rates. A large number of filings under Opinion No. 770 included volumes of gas from recompletions that did not qualify for the new rates.¹ Therefore, those filed volumes must be adjusted to reestimate the cost impact. While the original estimated volumes of gas flowing from January 1, 1973 to July 26, 1976, was 1.6 Tcf, the filings of producers and pipelines (adjusted for small producer production which is not filed and pipeline-owned production) amount to approximately 2.9 Tcf. These unadjusted volumes, as set forth in Exhibit 11, would indicate an estimated revenue increase for the industry of \$2.145 billion, as reported by producer filings, and \$2.042 billion, as reported by PGA filings.

EXHIBIT 11.—Producer and PGA filings

	Volume (trillion cubic feet)	Price difference (cents per million cubic feet)	Dollar impact (billions)
70 filing data			
Expanded:			
1973-74 vintage:			
770 filings	1,252	51.3	\$0.642
Other small producers	1,139	\$66.7	.093
Pipeline production	2,040	\$51.3	.021
Total	1,431		.756
1975 to July 1976:			
770 filings	1,327	94.49	1.253
Other small producers	1,147	\$79.2	.116
Pipeline production	2,021	\$94.4	.036
Total	1,495		1.389
Total, 1973 to July 1976	2,926		2.145
PGA filings: 1973 to July 1976			2.042

¹ Assumed to be 10 pct of total producer sales. Form 2 data indicates small producers (10,000,000,000 ft³ per year) are slightly less than 15 pct of total producer sales. However, there is some bias in that data due to the consolidated reporting of small sales. Also, some small producers are included in the 770 rate filings. Thus 10 pct is chosen as a reasonable modification of 15 pct for these factors.

² 51.3×1.3=66.7¢; this reflects opinion No. 742's 30 pct adjustment for small producers.

³ PGA filings sample by pipelines with production indicate that approximately 5 pct and 3 pct, respectively, of 1973-74 and 1975-76 production of 800,000,000 ft³ and 700,000,000 ft³, respectively, are eligible for new rates.

⁴ Same as filing producers.

⁵ 151.5-(55.6×1.3)=79.2¢; Small producers not allowed 30 pct adjustment on 1975-76 gas rate.

These *unadjusted* PGA filings (\$2.042 billion) are, of course, based upon the erroneous interpretation of Opinion No. 770 by producers. To accurately state the impact of the rate structure prescribed herein, the PGA filings must be *adjusted* to reflect the clarification of qualifying

gas¹⁰⁷ and the reduction in the 1973-1974 biennium rate.¹⁰⁸

Based upon the best information now available, as contained in various filings and other sources available to the Commission, recompletions account for approximately 5 to 10 percent of the 1973-74 biennium gas filings and 30 to 45 percent of the 1975-76 biennium filings by volume. Applying these percentages to

the total volumes filed under Opinion No. 770, and scaled to agree in total with the PGA filing total, reduces the gas now flowing from wells commenced between January 1, 1973 and July 26, 1976, to between 2.0 and 2.3 Tcf, and the revenue increase thereon to between \$1.37 and \$1.61 billion. These estimates were computed as follows:

	Recompletion exclusion (percent)	Estimated volumes (trillion cubic feet)	Price difference (cents per million cubic feet)	Dollar impact (billions)
High estimate:				
1973-74.....	5	1.294	152.8	\$0.683
1975 to July 26, 1976.....	30	.996	92.9	.925
Total.....		2.290		1.608
Low estimate:				
1973-74.....	10	1.226	152.8	.647
1975 to July 26, 1976.....	45	.783	92.9	.727
Total.....		2.009		1.374

¹ Weighted average price differentials from exhibit 11, supra.

3. *The Cost Impact of Opinion No. 770-A.* Using the adjusted flowing gas volumes and dollar impacts as a base, two further modifications must be made to ascertain the projected dollar impact of this Opinion. First, as stated earlier, we have modified the rate for 1973-74 gas as set in Opinion No. 770 to 93¢ per Mcf, increasing at 1¢ per annum beginning January 1, 1977.

The resultant volumes and dollar impacts are shown in Exhibit 12. The total volumes affected over the next 12 months are estimated at \$1.49 to \$1.78 billion.

Spread over the approximate 11.5 Tcf of estimated gas flowing interstate over the next 12 months, this dollar impact translates between 13¢ and 15.5¢ per Mcf. The average residential gas rate for the forthcoming 12 month period, ex-

cluding the increases herein, would be about \$2.01 per Mcf¹⁰⁹ so the percentage price increase for residences would amount to between 6.5 and 7.7 percent. The average residential bill would rise from \$241 per year¹⁰⁰ to between \$256 and \$260 per year, up \$15 to \$19 over the next twelve months. We reiterate that this national average cannot be assumed to be correct for all customers, as different pipelines will have different price increases, depending on the vintages of the gas they purchase. These projections on residential impact may be somewhat understated since, as the appended staff report concludes, pipelines with residential consumption comprising a large fraction of their total throughput appear to be more dependent upon the newer, more costly, wells.

EXHIBIT 12.—Cost impact of opinion No. 770-A

	Recompletion exclusion (percent)	Estimated volumes (trillion cubic feet)	Price difference (cents per million cubic feet)	Dollar impact (billions)
High estimate:				
1973-74.....	5	1.294	143.3	\$0.560
1975 to July 26, 1976.....	30	.996	92.9	.925
Subtotal 1973-July 26, 1976.....		2.290		1.485
Next 12 months.....		.315	92.9	.293
Total impact (high estimate).....		2.605		1.778
Low estimate:				
1973-74.....	10	1.226	143.3	.531
1975-July 26, 1976.....	45	.783	92.9	.727
Subtotal 1973-July 26, 1976.....		2.009		1.258
Next 12 months.....		.247	92.9	.229
Total impact (low estimate).....		2.256		1.487

¹ Weighted average price differential (including State taxes) based upon 770 volumes as filed by producers and expanded to include other small producers and pipeline production:

$$\begin{aligned}
 & 1.252 \times (.98.6 - .56.5) = .527 (.98.6 - .93 \times 1.06) \\
 & .139 \times (.128.2 - .73.5) = .076 (.128.2 - .98.6 \times 1.3; 73.5 - .56.5 \times 1.3) \\
 & .040 \times (.98.6 - .56.5) = .017 \\
 & \hline
 & 1.431 \quad .620 \\
 & .620 \\
 & \hline
 & 1.431 \quad .433 \\
 & 1.431
 \end{aligned}$$

² New dedications assumed at same rate as past 19 month period 1975 to July 26, 1976. E.g., for the high estimate

$$\frac{0.996}{19} \times 12 \times \frac{1}{2} = .315 \text{ Tcf}$$

Footnotes at end of document.

4. *The Costs and Benefits of Opinion No. 770-A.* It is important to make clear that these are average impact estimates associated with the direct effect of this Opinion. They do not reflect, among other things, that:

(a) Any given distribution company may experience substantially higher or lower rate increases due to the particular mix of supply sources of their pipeline suppliers;

(b) In some states intrastate prices may rise because the state allows "most favored nation" clauses in sales contracts, thus tying those contract prices to the highest price in the field (a clause disallowed by this Commission for interstate sales contracts since 1961);

(c) Some state regulatory commissions may raise the price of intrastate gas subject to their jurisdiction at the same time; and

(d) Some pipeline transportation and distribution companies might have rate increases due to increased costs other than purchased gas which go into effect at the same time.

At the same time, any calculation of the benefits of this Opinion must be cast in terms of the increased availability of natural gas that is less expensive than its substitute, and the fundamental value of husbanding a scarce natural resource through conservation in response to the higher prices. While it is difficult to specify the benefits with as high a degree of accuracy as we have specified the costs above, the following items must be considered:

(a) The most frequent substitutes for natural gas are oil and electricity; imported oil at \$13.50 per barrel is equivalent to a wellhead price of \$2.00 per Mcf; ¹¹¹ electricity at 4 cents per Kwh is equivalent to a wellhead price of approximately \$10.80 per Mcf; ¹¹² the most recent costs of LNG and SNG lie somewhere between these two; if the 0.315 Tcf of new gas production capacity projected to commence over the next 12 months at an average new rate of \$1.44 per Mcf would not have been forthcoming at the Opinion No. 699-H rate, and instead had been replaced by the above-mentioned alternative energy sources, the benefits resulting from the price differentials are apparent;

(b) If sufficient gas production were not forthcoming, the conversion costs for using a different form of energy (i.e., oil or electricity) would be considerable;

(c) The ever-increasing effect of spreading pipeline and distribution company depreciation and fixed charges over smaller volumes of throughput would cause a substantial increase in rates for the consumer;

(d) there have been estimates made of the long run costs and benefits of Opinion No. 770; the staff report appended to Opinion No. 770 estimates the net benefit in 1980 to be \$2.0 billion per year; ¹¹³ FEA estimates the average annual residential fuel bill would be 13% less in 1980 and 10% less in 1985 as a result of the rate increases of Opinion No. 770: "These reductions would result from less substit-

tion of more expensive fuel oil for natural gas in the residential market." 364

F. SUMMARY

The Commission does not deny that Opinion No. 770 will have a significant economic impact. However, we firmly believe that the resulting increased gas supplies and subsequent reduced reliance upon more expensive alternative fuels not only mitigate the current cost to the consumer, but will result in a substantial long-term saving. The Natural Gas Act provides for the determination of a cost-based rate. Costs have increased dramatically and under the Act will flow through to the ultimate consumer at some point. Accordingly, we have reached the determination that rising costs and decreasing supplies must be squarely faced. We have done so in this proceeding in an attempt to stem the worsening natural gas shortage.

While the rate structure and eligibility criteria established herein result in a large dollar impact (because of the amount of eligible gas already flowing), the new rate structure established herein also remains in effect until the next biennial review. Such rates will affect the producers' expectation of the subsequent biennial rates. While we cannot bind the decisions of future Commissions, we believe we have used the best available methodology for prescribing national rates. If producers share these beliefs, their exploratory and developmental decisions will be affected accordingly. Therefore, we do emphatically believe that our actions are in the consumers' best interest and that we are fulfilling our Congressional regulatory mandate which, as determined by the courts, is to provide for an adequate supply of natural gas at the lowest possible cost to the consumer.

VI. RATE ADJUSTMENTS

A. DEEPER DRILLING

The GHK Company and Gasnadarko, Ltd. (GHK), in their application for rehearing, argue that the Commission erred in its finding that there was insufficient evidence upon which to predicate an increment to the return allowance provided for the rates established in Opinion No. 770 which is appropriate for drilling depths below 15,000 feet. They further allege that the Commission erred in failing to allow a return increment that is reflective of the greater risks involved in deeper drilling.

GHK has restated its long-held position that at least a 33-percent rate of return is necessary for high risk deep drilling as compared to conventional drilling. However, it once again fails to provide productivity data which is necessary to estimate unit investment costs upon which to apply the 33-percent rate of return.

Deep wells obviously require greater capital than conventional wells. GHK reiterates its main contention that investors in deep well drilling, if successful,

should realize or expect to realize a 33% return because of the large expenditure involving a single well. If the Commission were to accept this logic they would be faced with further requests for higher profits involving any large capital expenditure for other type of exploration or development projects such as high-bonus Federal leases or multimillion dollar offshore platforms. On the other hand, a greater return may be required to attract investment capital into deep well projects. Even if 33% e.g., is the marginal or minimum return necessary to stimulate deep well investment, the Commission must be able to determine if the national ceiling of \$1.42 or some other level will generate an average return of 33% so as to avoid unnecessary or excess profits which are prohibited under cost based pricing.

Excerpts from GHK's earlier submitted comments imply impressive success ratios,³⁶⁵ which imply lower risk, and that many deep wells are "super" producing wells.³⁶⁶ These statements lead us to believe that low dry hole factors and high productivity may well offset higher drilling costs. GHK continues to assert that historical productivity data is non-existent and unobtainable, or even if ascertainable, would produce imprecise unit costs. This is indeed amazing because the deep well investor, in order to determine if the 33% is actually realizable, must acquire reasonable estimates of the amount of gas reserves to be discovered and the well's producing potential or deliverability. If gas reserve estimates are truly unavailable to GHK, there should be grave concern as to the reliability of the 33% marginal return required.

Lastly, an analysis of "super" wells of which 85% are deep wells, made by Resources Analysis Management Group (RAM)³⁶⁷ on behalf of GHK, illustrates the potential rewards of a successful deep well. The study indicates the median annual well production exceeds 7 billion cubic feet or 7,000,000 Mcf. At the national base rate of \$1.42 the producers would realize revenues in one year amounting to slightly less than \$10,000,000. Yet, GHK states that the investment in deep wells ranges from \$2 to \$10 million.³⁶⁸ Therefore, the potential return under the rates set herein appears quite high.

GHK has filed no additional evidence in the application for rehearing. Therefore, we continue to deny the relief requested therein. However, as we stated in Opinion No. 770, should adequate data become available, we would consider the initiation of the proceedings required to determine the appropriate allowances for drilling efforts to depths greater than 15,000 feet.

IPR points out the fact that the Commission failed to provide special relief procedures in Opinion No. 770 for drilling to depths greater than 15,000 feet and in water depths greater than 250 feet. This was inadvertent. Accordingly, new subsection 18 CFR § 2.56a(g) (1) is adopted to read as follows:

(1) *Drilling Depths Greater Than 15,000 Feet and Water Depths Greater Than 250 Feet.* For sales of natural gas made from wells with a total depth greater than 15,000 feet (8,000 feet in the Appalachian and Illinois Basin Areas) and/or located in water depths greater than 250 feet, the seller may petition the Commission for relief from the rate established in subsection (a) and such relief may be granted by the Commission upon a showing that total cost of producing such gas is in excess of the rate established in this decision.

B. PIPELINE PGA FILINGS

In Opinion No. 770, the Commission permitted jurisdictional pipelines with effective Purchased Gas Adjustment (PGA) clauses to make a one-time special PGA filing to track the increased rates paid to producers from July 27, 1976, the effective date of Opinion No. 770. Pipelines were permitted to file this special PGA increase on or before September 27, 1976, to track all increases in purchased gas costs that were to have been filed by producers on or before August 26, 1976.³⁶⁹

INGAA seeks rehearing to modify this provision and has suggested that the collection of purchased gas costs should be spread over a longer period to reduce the impact of the one-time surcharge on the consumer. On September 22, 1976, on the petition for declaratory orders filed by Southern Natural Gas Company and others, the Commission issued an order which permitted the pipelines with effective PGA clauses to spread the surcharge over a twelve-month period and provided for a 9% carrying charge during the duration of the surcharge. However, the Commission specifically noted that this action "does not constitute a grant or denial of any or all of the petitions for rehearing filed by any party herein, and is without prejudice to any contention made by any party in its petition or application for rehearing or reconsideration."

Rehearing of the September 22, 1976 order was sought by several parties asserting that it was a final order under Section 19 of the Natural Gas Act. By order dated October 14, 1976, Order Granting Intervention, And Granting Reconsideration For Purposes Of Further Consideration, the Commission reiterated its admonition that the September 22, 1976 order was not final, rather that it represented a temporary method to permit PGA increases to go into effect as of the September 27, 1976 date set by Opinion No. 770, while retaining the ultimate decision for our order on rehearing. Since any Opinion No. 770 rate increase was made subject to possible refund pursuant to our August 13, 1976 order in response to the decision of the District of Columbia Circuit, permitting the flowthrough of PGA costs incurred because of Opinion No. 770 did not harm any party.

Our review of the submittals that led up to the September 22, 1976 and October 14, 1976 orders, plus the points raised by INGAA in its application for rehearing of Opinion No. 770, demon-

strate that our disposition of the issue in our September 22, 1976 order was correct. The original surcharge recovery period discriminated against winter heating season consumers who received little or no gas in the summer and fall, when the Opinion No. 770 rate increases went into effect, but were required to pay the surcharge covering these costs primarily during the winter heating season. In order to eliminate this inequity it is appropriate to spread the surcharge over a twelve-month period. Since a pipeline would now have to pay out funds which would be recovered over an extended period of time, it is also appropriate to provide that the statutory 9% carrying charge¹⁷⁰ be added to the surcharge until flowed through to its customers. We also conclude that our September 22, 1976 order properly permitted pipelines to elect to commence the twelve-month period as of their normal PGA filing time or to have the surcharge begin October 27, 1976, by filing for the increase by September 27, 1976.

On October 21, 1976, an order was issued in Docket No. RM75-14 "for Staff guidance and to appraise all affected parties of the Commission's intent." This order restated the applicability of the § 2.56(a) rates to completions, perforations or recompletions into a previously non-producing reservoir through the same well bore. The order required producer filings by November 1, 1976, which either corrected previous filings or consisted of a sworn affidavit attesting that the previous filings were in accordance with the Commission policy. Concurrently therewith, an order was issued in Docket Nos. RP72-110 (PGA76-13), et al., Algonquin Gas Transmission Company, et al., which deferred until December 1, 1976, the effective date of the pipeline tracking filings and required a re-filing of the PGA's on or before November 10, 1976.

By notice issued October 28, 1976, the Commission granted an extension of time to November 8, 1976, for producer filings and extended until November 17, 1976, the date for pipeline filings.

This Opinion will require further changes in the producer rate filings previously made on or before August 26, 1976, which will necessitate commensurate pipeline adjustments. Accordingly, we will supersede the dates provided in the Notice of Extension of Time issued October 28, 1976, and require producer filings on or before November 12, 1976, to implement the provisions of this Opinion. Pipelines purchasing solely from producers should make their revised PGA filings on or before November 22, 1976, in order to receive a December 1, 1976, effective date. Pipelines purchasing from other pipelines or producers and pipelines jointly should file no later than November 24, 1976, to receive the December 1, 1976 effective date.

C. REFUNDS AND RATE REDUCTIONS

IPR in its application for rehearing argues that the Commission has no au-

Footnotes at end of document.

thority to require a producer to waive any refund credit to which it was entitled under prior area rate opinions with respect to reserves previously dedicated but not yet delivered. This argument is in error. In Opinion No. 770 the Commission reaffirmed the determination made in Opinion No. 699-H that a producer should not be allowed to charge the new ceiling rate for the sale of gas and at the same time receive a refund credit for the same gas. That determination was specifically affirmed by the Court in the Shell case, supra, 520 F. 2d at 1082-1083, as within the Commission's discretion.

With respect to IPR's concern over gas delivered prior to July 27, 1976, the required waiver under Opinion No. 770 has no applicability to any refund credit for gas delivered prior to the effective date of a producer's use of the new ceilings prescribed in Opinion No. 770.¹⁷¹

D. GATHERING ALLOWANCE

In Opinion No. 770, the Commission determined that a gathering allowance should be added to the base rate on an area basis. This was consistent with Opinion No. 699-H and prior area opinions since the only evidence available was gathered in prior area rate proceedings on an area basis.

IPR, in its application for rehearing, claims that no off-lease gathering allowance is provided in Opinion No. 770 for areas not covered by previous area rate opinions. This is somewhat misleading since most of the major rate areas, as designated by the Commission, have had an allowance for gathering established by earlier proceedings.¹⁷²

In Opinion No. 749, certain off-lease gathering investment and expenses were included in the Production Costs on a nationwide basis. The throughput volume reported by the producers therein was 1.416 Tcf, as of December 31, 1972.¹⁷³ With respect to Witness Click's 13 gathering systems installed since January 1, 1970, with a throughput of .048 Tcf, it is unclear whether any of this throughput or any of these 13 systems were included in the cost of service underlying the Commission's rate established in Opinion No. 749. In any event, the Witness Click's sample is too small to provide any meaningful data.

The Commission has historically added a gathering allowance, production taxes and royalty to the base rate on an area basis. If Witness Click had made his study on an area basis, rather than by states, and identified the systems to avoid the possibility of double counting, perhaps his study would have some validity in determining a current off-lease gathering cost by area.

Accordingly, since the cost of gathering gas to a central point in the field was included in the base cost data underlying the Commission's flowing gas rate, and since Witness Click's limited data is unidentified and not broken down by areas, we find no justification for changing the gathering allowances recommended in Opinion No. 770.

E. SMALL PRODUCERS

As noted in Opinion No. 770, the Commission did not make small producers respondents to this proceeding since rates for small producers were the subject of a separate proceeding. Accordingly, small producers are entitled to the rates prescribed in Opinion Nos. 742, et seq.

VII. POLICY DETERMINATIONS

A. VINTAGING

In Opinion No. 770, the Commission abandoned the intended goal of Opinion No. 699-H to establish a single uniform national rate for all gas dedicated or wells drilled on or after January 1, 1973, and determined that separate cost groupings for 1973-1974 biennium gas and post-December 31, 1974 gas should be established. The decision to do so was "based on a determination that the increased cost of exploration and production and the decreased productivity of wells (after December 31, 1974) should only be reflected in the rates for the corresponding period and not for a prior period."¹⁷⁴ Since the actual attendant cost and productivity data for the 1973-1974 biennium could be considered separately, we determined that the more recent 1975 data should only be considered prospectively and should not affect the 1973-1974 cost-based rate.

In their applications for rehearing, IPR, Austral and Belco object to the reinstatement of separate ceiling prices for different vintages of gas. As support for their objections they cite the policy decisions of the Commission and the underlying rationale in Opinion Nos. 699-H and 639.¹⁷⁵ Although these arguments have some merit, they are rejected for the reasons set forth below.

As we pointed out in Opinion No. 770, a careful examination of costs and revenues associated with the various facets of producer activities is essential in determining a just and reasonable rate. The Supreme Court made this very clear in *Mobil Oil Corp. v. FPC*, supra, where it found that the Natural Gas Act provides for the setting of rates upon a cost of service approach. Of course non-cost factors must be considered (this is discussed earlier in the Opinion), but cost must be the foremost concern in establishing rates.

IPR argues that the producer must receive the "replacement cost" from gas currently being sold in order to have sufficient capital to invest in more expensive production. We find this argument unimpressive when each of the "vintage" price levels is examined. Both the \$1.42 rate¹⁷⁶ and the \$.93 rate¹⁷⁷ ample provisions in the rate of return calculations for the cost of capital. For wells drilled in the 1973-1974 biennium, an adequate allowance is made in the \$.93 rate or recover all capital costs. The same is true for wells drilled after December 31, 1974.

The Commission has provided for some additional funds for needed increases in capital expenditures by permitting "expiring" contracts to increase to the level of 52 cents per Mcf.¹⁷⁸ Furthermore,

Opinion No. 749 was issued by the Commission on December 31, 1975, establishing a rate of 29.5 cents per Mcf for gas flowing in interstate commerce on or after July 1, 1976. In the slip opinion the Commission at page 21 noted:

In a period of rising exploration and development expenditures, this yielded a rather generous exploration and development allowance since the exploration and development expenditures properly attributable to flowing gas volumes are less than the amounts allowed.¹⁷⁰

The Commission concluded that:

Flowing gas will carry a sufficient portion of the financing of new exploration and development. . . .

After examination of these rate structures, it is apparent that IPR's "replacement price" argument is without merit.

IPR also argues that a multiple vintage pricing system only results in an administrative morass. We reiterate that we are aware of the problems occasioned by the continuance of the vintaging concept; however, the Commission has a responsibility to minimize severe and harmful economic dislocation due to increased rates.¹⁸⁰ In light of the demonstrable cost differentials associated with various vintages of gas and the impact on the public of permitting the price of all gas to eventually rise to a uniform nation rate based on most recent costs and productivity, we cannot continue our former policy of eliminating vintaging.

As the Court pointed out in *Shell Oil Co. v. FPC*, *supra*:

The Commission is not bound by its previous policies. As this Court and the Supreme Court have noted on various occasions, the rate structures which introduced or adjusted vintaging were experimental. It is necessary without a doubt that agencies be permitted latitude to evaluate old experiments and modify or abandon them when their best judgment requires such a course of action. 520 F. 2d at 1077-1078.

The Commission was not bound in Opinion Nos. 699, et seq. to the vintaging policies of prior area rate proceedings, just as we were not bound in Opinion No. 770 to the policies set forth in Opinion No. 699-H. The costs and benefits of vintaging were weighed in Opinion No. 770 and titled in favor of continuing the vintaging concept. For these reasons and those set forth in Opinion No. 770, the arguments of IPR, Austral, Aztec and Belco are hereby rejected.

B. OFFSHORE V. ONSHORE RATES

APGA, Congressmen and NYPSC, all raise the issue of pricing offshore gas

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separately from onshore gas. They argue that since offshore gas is dedicated solely to the interstate market, offshore rates should not be affected by the onshore rates that are forced to compete with the unregulated intrastate market. Implicit in this argument, however, is the assumption that onshore costs are higher than offshore costs. The cost analysis below indicates that the contrary is probably true.

As shown in Exhibit 13 the information now before the Commission indicates the cost-based rate for offshore gas could exceed both the rates for onshore gas and the overall rates established in Opinion No. 770. While offshore productivity is many times higher than onshore or average productivity, drilling costs, dry hole costs and especially lease acquisition costs are considerably higher than their onshore counterparts. Such drilling and lease acquisition costs are set forth in Exhibits 14 and 15.

If, as some parties claim and the sparse UDC data indicates,¹⁸¹ offshore rates-of-take are faster than those employed in Opinion No. 770,¹⁸² this would tend to lower the offshore cost-based price. Allowing for differences in rates-of-take between offshore and onshore gas would make the cost-based price difference of 33¢ per Mcf smaller.

Therefore, we conclude that at this time the available data indicate that a split between onshore and offshore pricing would lead to no appreciable differences and, insofar as any differences exist, the data appear to indicate that the offshore price should be higher.

Furthermore, irrespective of the relative onshore and offshore costs we reject the suggestion of differential pricing for onshore and offshore gas because such pricing would distort the economic in-

centives between the two. We believe that our pricing policy should be consistent in encouraging the drilling of comparable marginal wells, whether the wells are onshore or offshore.

It should also be noted that Congressmen and NYPSC misinterpret the Commission's purpose in reviewing unregulated intrastate prices. The Commission has not established rates in this proceeding, or any other rate proceeding, strictly to "compete" with the existing rates in the intrastate market. We have instead examined intrastate prices, as well as other non-cost factors, to ensure that the cost-based rates were just and reasonable. While it was our expressed hope that the \$1.42 rate would attract certain gas which might be sold in the intrastate market, we did not establish that rate for competitive purposes. Therefore, any comparison of offshore prices and intrastate prices would be no different than a comparison between onshore prices and intrastate prices.

EXHIBIT 13.—Comparative pricing

	Over-all	On-shore	Off-shore
Drilling cost (dollars per foot) ¹	\$38.53	\$34.97	\$109.32
Dry hole cost (dollars per foot) ¹	\$28.20	\$28.32	\$100.74
Productivity (millions of cubic feet per foot) ¹	300	196	1,651
Lease acquisition as fraction of successful well cost ²	\$1.10	\$.23	\$4.23
Price without escalation:			
600-H model	\$1.61	\$1.53	\$1.77
OEC model	\$1.65	\$1.49	\$1.92
Average	\$1.63	\$1.51	\$1.84

¹ JAS data, excluding Alaska; see exhibit 14.

² AGA/API data; midway between 8 (1968-75) and 9 (1967-75) year weighted averages. All data currently in opinion No. 770, exhibit 4 (p. 40).

³ JAS/Interior data; see exhibit 15.

EXHIBIT 14.—Drilling costs: offshore and onshore (excluding Alaska)

Year	(1) Current dollars		(3) Index*	(4) Constant dollars	
	Successful	Dry hole		Successful	Dry hole
Offshore:					
1973	\$78.24	\$66.51	83.0	\$94.27	\$78.93
1974	96.01	96.42	100.0	96.01	96.42
1975	109.32	100.74	114.9	95.14	87.67
Onshore:					
1973	24.52	15.61	83.0	29.54	18.81
1974	31.33	21.79	100.0	31.33	21.79
1975	34.97	23.32	114.9	30.44	20.30

* Projected = 1973-74 average × 114.9.

* Average 1973-74.

Source: (1) and (2): Joint Association Survey. (3): IPAA report of the Cost Study Committee, "Summary of Committee Activities," May 1976. Adjusted Index. (4) and (5): (1) and (2) ÷ (3) for 1973 and 1974.

EXHIBIT 15.—Lease acquisition costs: Offshore and onshore

[In millions of dollars]

Year	Lease acquisition costs			Successful well costs		
	Off-shore	On-shore	Overall	Off-shore	On-shore	Overall
1967	510	319	829	403	1,064	1,467
1968	1,346	232	1,578	497	1,086	1,583
1969	112	1,025	1,137	487	1,236	1,723
1970	945	(231)	714	421	1,285	1,706
1971	96	546	642	305	1,202	1,507
1972	2,251	(529)	1,722	389	1,419	1,808
1973	3,082	564	3,646	336	1,669	2,005
1974	5,023	636	5,659	321	2,386	2,707
Total, 1967-74	13,365	2,562	15,927	3,159	11,377	14,536

NOTE.—Ratio of total lease acquisition costs to total successful well costs:

Offshore	4.23
Onshore	0.23
Total	1.10

Source: "Outer Continental Shelf Statistics," U.S. Department of Interior, Geological Survey—Conservation Division, June 1976. JAS, joint oil and gas costs.

The intrastate price for natural gas is merely a collateral consideration in assuring that the offshore rates are just and reasonable.

Accordingly, for the reasons set forth above, the arguments of APGA, Congressmen and NYPSC, are rejected.

C. ASSOCIATED GAS

APGA in its application argues that since by definition associated (casinghead) gas is merely a by-product of oil production, there can be no incentive to explore for it, and, therefore, the Commission's rationale of granting a \$1.42 rate to encourage exploration is inapplicable. APGA also argues that the cost of associated gas is much lower than for non-associated gas and that it should be priced accordingly.

These arguments are the same ones that have been raised and rejected in past area and national rate proceedings, and that have been resolved by the Supreme Court in *Mobil Oil Corp. v. FPC*, *supra*, where the Court said:

New York objects to the Commission's elimination of the distinction in maximum permissible rates between casinghead gas and gas-well gas so far as new dedications are concerned. Casinghead gas has traditionally been treated as a by-product of oil and therefore costed and priced lower than gas-well gas. The Court of Appeals held that 'FPC acted within the bounds of administrative propriety in abandoning any such distinction.' We cannot say that this conclusion, supported by the following reasoning, was error:

We believe that several considerations support this course of action: (i) the exigencies of administration demand the smallest possible number of separate area rates, *Permian, supra*, 390 U.S. at 761. . . . (ii) there is a serious problem of allocating the proper amount of exploration and development expenses between oil and gas, see *Sola I*: 428 F.2d 422 n. 30, (iii) imposing a lower price on casinghead gas might invite the divergence of such gas to the intrastate market, *Op*: 598, ¶ 167, and (iv) making the production of casinghead gas economically unfeasible might encourage profit-minded producers to flare it rather than market it—thus making natural gas in [the Southern Louisiana area] not merely a wasting but a wasted, as set * * * 483 F.2d, at 909.

Footnotes at end of document.

"Such pragmatic adjustments were used in Permian Basin as a way of equating first vintage gas and all casinghead gas, new and old. All that the Commission has done here is to equate all new casinghead gas with all new gas just as old casinghead has always been equated with old gas-well gas." (417 U.S. at 329 and 330).

Because of the difficulty involved in allocating the costs between oil and gas production and to provide the incentive to maximize the production of associated gas, we will continue to allow the same rates for gas as that allowed for "gas-well" gas. Accordingly, APGA's argument is rejected.

D. PIPELINE PRODUCTION

APGA argues that the Commission erred in its decision to make the rates established in Opinion No. 770 applicable to pipeline production of natural gas. APGA cites the former Commission policy in Opinion No. 568¹⁰⁰ that pipeline production from leases acquired before October 7, 1969, would be priced on an individual company cost-of-service basis. However, APGA has submitted no new evidence which convinces us that the policy established in Opinion No. 699-H,¹⁰¹ and later adopted in Opinion No. 770,¹⁰² with respect to pipeline production, is unjust or unreasonable.

APGA ignores the Commission's policy, stated in Opinion No. 568, that:

Pipeline producers are henceforth to be treated on a parity with independent producers. By so doing we are encouraging intensified exploration by the pipeline producers. We would anticipate that gas produced from leases acquired after the issuance of this opinion would be promptly dedicated in the public interest to assure the adequacy of the supply of natural gas.

The primary reason for the departure in Opinion No. 770 from the policy set forth in Opinion No. 568, and for the adoption of the policy established in Opinion No. 699-H was clearly stated in Opinion No. 699-H at page 49 where Commission found:

At the time these principles (in Opinion No. 568) were announced, the applicable area rate was dependent upon date of contract dedicating the production to the interstate market¹⁰³ rather than date of well com-

mencement as established in this proceeding. The change of vintaging by a well commencement date rather than date of contract should be applied to pipelines and pipeline affiliates as well as producers. There is no difference between a well commenced on or after January 1, 1973, by a pipeline or pipeline affiliate on a lease acquired prior to October 7, 1969, and a similar well commenced on a lease acquired after that date just as there is no difference between a well commenced by a pipeline or pipeline affiliate and a similar well commenced by a producer. Since it is the time at which a well is drilled that ultimately results in the greater portion of the cost of the gas supply rather than the costs incurred at the time the lease was acquired, the artificial distinction of lease acquisition date promulgated in Opinion No. 568 should be eliminated from the national rate structure.

¹⁰⁰ Newly discovered reservoirs located on previously committed acreage were subject to the price determined by date of discovery rather than date of contract.

This policy was subsequently upheld by the Court in *Shell Oil Co. v. FPC, supra*.

The existing natural gas shortage requires the best efforts of all producers, pipelines, and pipeline affiliates to explore for and develop new supplies of gas. The best efforts of the Commission are also required to provide prudent and efficient rate regulation. Accordingly, these best efforts should not be hindered by characterization by the "date of lease acquisition" or by necessity to review individual company costs-of-service calculations. Instead, we have determined that it is in the public interest for the national rate structure to include pipeline production and that the rates for such production should be determined by date of well commencement,¹⁰⁴ rather than by the date on which the subject lease was acquired. Therefore, APGA's objection is rejected. This in no way changes the cost of service treatment for pre-January 1, 1973, wells drilled on leases acquired prior to October 7, 1969.

The Cities Service Gas Company (Cities) has also sought rehearing of Opinion No. 770, arguing that qualifying production of pipelines and pipeline affiliates should be eligible for the \$.93 and \$.52 rates. We want to clarify that such production of natural gas will qualify for all of the rates prescribed in 18 CFR 2.56a(a). Some confusion as to this issue was caused due to an error that appeared in the ordering paragraphs of Opinion No. 770; however, this was corrected in an errata notice issued September 21, 1976.

E. BIENNIAL REVIEW

NYPSC indicates that it is contrary to the public interest to continue the biennial review because producers will delay the commencement of wells and the dedication of new gas supplies until after January 1, 1977, in anticipation of a higher rate. We disagree with this argument for the reasons set forth below.

In Opinion No. 770, the Commission provided a 4-cent per Mcf annual escalator to reduce the initial rate and to attempt to avoid further vintaging. As indi-

cated in the opinion, the escalator would be effective quarterly "to avoid delayed drilling or dedication toward the end of each year in anticipation of escalation." The same logic is applicable to the use of an escalator with respect to the end of the biennial period.

Whether costs in the next biennium will increase or decrease will naturally affect whether the post-December 31, 1976 gas will receive the price to which the 1975-76 gas has then escalated or be eligible for an entirely different rate. In any event, we believe that the biennial review allows the Commission the flexibility of making a comprehensive review of the impact of the then effective rates upon the producing industry and the demand for a supply of natural gas at that time. We also anticipate that the data sought by the Commission in FPC Forms 40 and 64 will be available during that review. Accordingly, we will maintain the flexibility provided by a biennial review and reject the argument of NYPSC.

F. ADVANCE PAYMENTS

NYPSC, SDPUC and Congressmen argue that the Commission failed to consider the effect of the advance payments program in its rate determination. They argue that vast amounts of capital were provided for the producers and that this fact should have been considered in the rate of return calculation. IPR, on the other hand, submitted into the record transcript at the oral argument a rate of return exhibit showing that the advance payments capital would have a minimal effect on the rate of return. IPR argues that advance payments should not be used to reduce the rate of return.

We find IPR's presentation at the oral argument to be erroneous. The IPR exhibit considers the \$2 billion of advance payments in relation to the capital structures of a group of petroleum companies. With no attempt to separate the domestic natural gas operations of these companies, the advance payments would naturally have little effect on the group's overall rate of return.

As noted previously, the rates established by Opinion No. 770, as modified herein, are cost based and meet the test of the Hope case in that they

*** enable *** [each] *** company to operate successfully, to maintain its financial integrity, to attract capital, and to compensate its investors for the uses assumed *** 158

In light of this fact, it is appropriate and necessary to reconsider the impact of the Commission's advance payments program which was one of several Commission programs established to supplement the rates allowed natural gas producers in order to provide additional capital to the producers for acceleration of exploration, development and production of natural gas reserves, as well as to provide dedication of additional onshore natural gas reserves to the interstate market.

We recognize that capital generated

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through the advance payments program should no longer be required to bring badly needed gas supplies to the interstate market. The rate structure set forth in this Opinion is designed to achieve the capital-formation objective.

It should also be noted that the advance payments program is now terminated,¹⁵⁹ and that only executory portions of existing advance payments contracts can be exercised. While we have determined that any continuing advance payments should be considered in the prospective rate determination herein, we believe that those advance payments outstanding prior to the issuance of this Opinion should not be considered. Certainly, it would be improper to penalize a producer without any prior notice by reducing its prospective rates because of its prior acceptance of advance payments under a Commission-approved program. Furthermore, these outstanding advance payments have provided additional capital for exploration and development activities, during the period (January 1, 1973-July 27, 1976) when the rates collected were below the levels which we herein have determined to be just and reasonable.

A review of the advance payments contracts on file with this Commission indicates that approximately \$1.8 billion of advance payments are yet to be made by pipelines to producers under advance payments contracts. An even greater amount could be paid under incentive clauses depending upon producer performance and experience. In light of the rates and charges established herein, to continue to require consumers also to pay the carrying charges on these additional advance payments clearly imposes a burden without concomitant benefits. This finding is underscored by the fact that the Commission's own analysis of the program found that, in general, it neither met the test laid down by the United States Court of Appeals for the District of Columbia Circuit in *Public Service Commission of the State of New York v. Federal Power Commission*, 511 F.2d 338 (CA DC 1975), nor the Commission's expectation of what the program would produce in the way of, *inter alia*, increased dedication of gas to the interstate market and accelerated development of reserves already dedicated.¹⁶⁰

The Commission would prefer to terminate that portion of the advance payments program outright. We recognize, however, that this can be directly accomplished only through the disallowance of such payments in the pipelines' rate base. Under these circumstances we are aware that a decision to disallow the inclusion of all future payments in rate base under outstanding commitments which are yet executory could prove to be inequitable and very costly to pipelines with legally enforceable contract obligations to continue to make such advances.¹⁶¹

We shall, therefore, modify Opinion No. 770 and require a person or natural gas company to reduce the sales price of

natural gas committed under any further advance payments by the cost of the advances borne by consumers. Thus, we shall modify Opinion No. 770 to provide that a person or a natural gas company who accepts advance payments made on or after 1 p.m., EST., November 5, 1976, under an existing advance payments contract shall be entitled to charge the rates set forth herein and in subsequent biennial reviews less a carrying charge credit. The resulting adjusted rate shall be employed in the discharge of the obligations of any advance payments made after 1 p.m., EST., November 5, 1976, for all gas delivered until an amount of gas has been delivered at the adjusted rate which has been reduced by total carrying charge credits equal to the amounts lawfully collected by the jurisdictional pipeline company as a result of including the advances in rate base.

The carrying charge credit shall be computed on the current applicable rate less the sum of (1) the present value of the initial outlays allocated to the production of one Mcf of natural gas; (2) the royalties associated with the production of one Mcf at the applicable price; and (3) the allocated operating and regulatory expenses associated with the production of one Mcf. For example, with the rate on a well commenced in the fourth quarter of 1976 being \$1.43 per Mcf, the carrying charge credit from gas from that well would be:

	cents
Applicable price per Mcf less:	143.00
Present value of initial outlays ¹	34.23
Royalty at 16 percent	22.68
Operating and regulatory expense ²	2.91
Carrying charge credit per Mcf	82.98

¹ Supra, p. 91.

² Supra, p. 92.

The consequent rate which would be used to discharge the carry charge on the advance payment would be 143.00-82.98 = 60.02¢ per Mcf and if the carrying charges were \$8,298, 10,000 Mcf (\$8298/8298) would have to be delivered at 60.02¢ per Mcf before the applicable rate (i.e., \$1.43 per Mcf), without carrying charge adjustment, could be charged.

In computing the carrying charges to be reimbursed by the producer, the same return and income tax factors will be utilized as were used by the pipeline when including such post-November 5, 1976 advances in the pipeline's rate base for purposes of setting rates charged its customers. Advance payments not resulting in production shall incur no carrying charges.

Any "advances" made by pipelines to producers not receiving rate base treatment are considered the nonjurisdictional affairs of the pipeline and producer in question and are not affected by this Opinion.

By separate order we shall require pipelines periodically to report to us, *inter alia*, the producers to whom such post-November 5, 1976 advances are made, the amount of such advances, the calculated

carrying charges thereon, the date gas commences to flow, and the amount of gas delivered from such projects.

It is our belief that such carrying charges are higher than the interest rates the producers would be required to pay on conventional loans. We further believe that this fact will encourage such producers to renegotiate or terminate executory provisions of presently outstanding advance payments contracts so as to eliminate the legal obligation of pipelines to continue to make such payments.

In the event any producer seeks to relieve the pipeline of its obligations to make such further advances and the pipeline refuses to accept such offer, we shall deny rate base treatment to such pipeline for any further payments made thereunder.

G. REPORTING REQUIREMENTS ON NEW WELLS AND RECOMPLETIONS

A question has arisen as to whether sales from a new well or from a new completion operation into a particular reservoir should qualify for the new rates prescribed in 18 CFR §§ 2.56a(a) (1) and (3), *infra*, where the gas flowing therefrom could be produced from a different existing well in the same reservoir at a lower rate. Our policy is not to allow any unnecessary wells or completions to receive the higher rate.

Under 18 CFR §§ 2.56a(a) (1) and (3), any sale made from a well commenced on or after January 1, 1973, whether that production is from an exploratory well or a later developmental well, would qualify for either the \$1.42 per Mcf rate or the \$.93 per Mcf rate, depending upon the commencement date of the well.

The policy of pricing all new wells on the same basis has been supported by NYPSC in its application for rehearing and upon oral argument. IPR, on oral argument, also endorsed this policy, detailing the geological reasons why further developmental wells might be necessary in certain circumstances. IPR, however, admitted that abuse could occur if an old well were abandoned and a new well drilled in the same reservoir, and suggested that some reporting be required if that situation arose.

We are aware that the USGS and many states have regulations regarding the spacing of wells and the drilling of unnecessary wells. For example, the OCS Order 11 governing Gulf of Mexico area (U.S. Department of the Interior, January, 1975) states:

14. Location of Wells. A. General. The location and spacing of all exploratory and development wells shall be in accordance with approved programs and plans required in 30 CFR 250.17 and 250.34. Such location and spacing shall be determined independently for each lease or reservoir in a manner which will locate wells in the optimum structural position for the most effective production of reservoir fluids and to avoid the drilling of unnecessary wells.

In the offshore lands where drilling and production is under USGS regulation and supervision, we will abide by their determination of the necessity to

drill additional wells or to recomplete older wells.

With respect to onshore and offshore lands under state jurisdiction, we are concerned about the possibly conflicting objectives and the varied abilities and willingness of state agencies to enforce regulations. Hence, we will require producers to justify the need for any new well or any new completion within an established proration unit in the same reservoir. We will require the producer to provide explanations in writing justifying the need for the new well or the new completion, including any documents filed with and received from the State Regulatory Agency. While we are hopeful that state certification will suffice in most instances, we must assure that the new wells or completions are necessary before allowing the higher prices.

Accordingly, 18 CFR 2.56a(p) is added to the Commission's Regulations to require producers to make a rate filing to collect the new gas rate for production from a new well or new completion within an established proration unit in the same reservoir; such rate filing shall be accompanied by a statement of eligibility which justifies the new well or new completion for reasons other than price. The rate filing will be treated as an initial rate subject to review and verification of eligibility. Failure of a producer to file such eligibility statement and justification of the need for the new well or the recompletion, will automatically preclude the sales from the new well or recompletion from qualifying for the rates prescribed in 18 CFR §§ 2.56a(a) (1) and (3), and will limit the rate for sales from the new well or recompletion to rates applicable to sales from the existing well.

H. RECOMPLETIONS

NYPSC, in its application for rehearing and upon oral argument, submits that the separate completion of an existing well into a new reservoir should not be classified as a well commenced after January 1, 1975. NYPSC argues that the major expenditures for such an operation, including lease acquisition and exploratory drilling costs, were undertaken in past periods at much lower costs. Alabama Gas Corporation, in its application for rehearing, requests clarification of a number of issues regarding date of reservoir discovery pricing provisions and, in its oral argument, suggests recompletions not be allowed the then effective national rate. IPR, on the other hand, cites the risks involved in drilling a new well and argues that the \$1.42 per Mcf rate should be allowed for such recompletions.

In Opinion No. 770, the Commission did not expressly address the issue of whether completion operations from an existing well into a reservoir not previously produced by the well should qualify for the new rates established therein. However, to clarify its intention in Opinion No. 770 and to correct any misunderstanding of the parties with respect to recompletions, on October 21, 1976 the Commission issued an order re-

stating its intended policy.¹⁰³ In that order, the Commission stated:

Sales of natural gas from such a completion operation into a different reservoir (a reservoir not previously produced by the well) prior to January 1, 1973, in an existing well that was commenced prior to January 1, 1973, will continue to be subject to the applicable area rate or national "flowing" gas rate established in Opinion No. 749.¹⁰⁴

Sales of natural gas from a completion operation into a different formerly non-productive reservoir during the period from January 1, 1973 to January 1, 1975, in an existing well commenced prior to January 1, 1973, are not eligible for the \$1.01 per Mcf rate established in Opinion No. 770, but are eligible for the 52 cents per Mcf rate prescribed in § 2.56a(a) (4) of the Commission's regulations.

Sales of natural gas from any completion operation into a different formerly non-productive reservoir on or after January 1, 1973 and prior to January 1, 1975, in an existing well commenced on or after January 1, 1973 and prior to January 1, 1975, are eligible for the \$1.01 per Mcf rate established in Opinion No. 770.

Sales of natural gas from a completion operation into a different formerly non-productive reservoir after January 1, 1975, in an existing well commenced prior to January 1, 1973, are not eligible for the \$1.42 per Mcf rate established in Opinion No. 770, but are eligible for the 52 cents per Mcf rate prescribed in Section 2.56a(a) (4) of the Commission's regulations.

Sales of natural gas from a completion operation into a different formerly non-productive reservoir after January 1, 1975, in an existing well commenced on or after January 1, 1973, and prior to January 1, 1975, are not eligible for the \$1.42 per Mcf rate, but are eligible for the \$1.01 per Mcf rate established in Opinion No. 770.

Sales of natural gas from a completion operation into a different reservoir after January 1, 1975, in an existing well commenced on or after January 1, 1975 are eligible for the \$1.42 per Mcf rate established in Opinion No. 770.

There is no question that this represents a departure from the prior Commission policy under Opinion No. 699-H which permitted recompletions to obtain the new national rate.¹⁰⁵ While we do not question the wisdom of our predecessors on this issue, we do believe our decision to limit the applicability of the \$1.42 and \$.93 rates by the well commencement date is consistent with cost-based pricing and is necessary in this period of rapid cost changes.

First, the costs associated with the drilling of a well in the 1973-1974 biennium or the 1975-1976 biennium were considered for rate purposes at the time of drilling, not at the time of recompletion. It is apparent from the cost analyses in Opinion Nos. 749, 699-H, and 770 that wells drilled prior to January 1, 1973 were not as costly as those drilled subsequent to that date. It follows then that recompletions performed during the 1973-1974 biennium and the 1975-1976 biennium should not be priced at the same level as higher-cost wells drilled, but should be priced at some lower rate.

Secondly, the \$1.42 and \$.93 rates established in this Opinion include cost components for, *inter alia*, dry hole costs, other exploration costs, exploratory overhead costs and lease acquisition costs.

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Clearly, the recompletion of a well does not involve the incurrence of these costs, and to that extent would not warrant the higher rates prescribed herein.

Thirdly, it is likely that the reserve estimates associated with most recompletions are reported upon discovery at the time of the drilling of the well and not delayed until the performance of the completion operations.¹⁰⁰ These reserve estimates were used in the productivity determination upon which the original price of the initial gas from the well was determined. Thus, it was presumed in the price calculations that gas from recompletion would be produced at the price effective at the time of drilling.

Finally, the national rates as determined for both the 1973-1974 and 1975-1976 biennia have a cost component for recompletion of \$.02 and \$.05 per Mcf, respectively.¹⁰¹ Therefore, the costs of materials, labor and the interruption of production associated with recompletion have been taken into account in the pricing of this gas at the time of initial drilling. This allowance is quite substantial when taken at time zero for price-setting purposes (although not actually expended until the recompletion date) and allowed for all other than from the recompletion.

While we have limited the applicability of the \$1.42 and \$.93 rates to well commencement dates, and thereby disallowed the eligibility of these rates for recompletions of wells drilled prior to January 1, 1973, we will not reverse the prior decision of the Commission in Opinion No. 699-H to permit recompletions in such wells to receive the \$.52 rate rather than some lower rate.¹⁰²

We find that it would be unjust and unreasonable to require producers to rollback the price received for gas from recompletions performed prior to the issuance of Opinion No. 770 in wells commenced prior to January 1, 1973.

We realize that certain costs can be incurred by producers in recompleting a well drilled prior to January 1, 1973. It is apparent that a price somewhat higher than the national rate for "old" gas is needed to induce producers to recomplete into higher formations with lower pressures. Thus, for supply enhancement, we find it reasonable to allow producers to continue to receive the Opinion No. 699-H price treatment for any recompletion in a well commenced prior to January 1, 1973, which results in production of gas from a formation not previously produced in the wellbore.

This pricing scheme negates the need for any and all reservoir pricing provisions of previous rate structures, thereby removing the ambiguous new reservoir distinction that was objected to by Mr. Kaiser (Small Producers for Energy Independence) and by the Alabama Gas Corporation in oral argument. Accordingly, the previously effective subsection titled "Newly Discovered Reservoirs on Previously Committed Acreage"¹⁰³ is hereby deleted. Any sales which qualified for the rate prescribed in Opinion No.

699-H under this previously effective "newly discovered reservoir" classification will continue to qualify for the rates prescribed in 18 CFR 2.56a(a)(5).

We hereby determine that the date of commencement of a well shall be, for venting purposes, determinative of the rate applicable to sales of natural gas from all formations to be produced from that well bore (other than formations later penetrated by deeper drilling) notwithstanding any contractual dedication limitations thereupon. This, however, shall be subject to a producer's entitlement to the Opinion No. 699-H rate for post-January 1, 1973 recompletions in different formations in a well commenced prior to January 1, 1973.

Production from reservoirs penetrated for the first time through deeper drilling¹⁰⁴ in an existing well is eligible for the same rate as if the deeper drilling constituted the commencement of such well.

In accordance with the Commission's order of August 13, 1976,¹⁰⁵ requiring refunds of any rates collected over and above those ultimately prescribed in this proceeding and in light of the Commission's clarified recompletion policy, we will require any producers to refund to their purchasers any amounts collected from sales which have been determined to be ineligible for the \$.93 or \$1.42 rates prescribed herein.

I. REFUND REQUIREMENTS

In their applications for rehearing, APGA NYPSC, and the County of Erie and City of Buffalo, New York (Buffalo) ask for the continuance of the refund obligation imposed by the Commission in its order of August 13, 1976,¹⁰⁶ in response to the injunction issued by the Court in *APGA v. FPC*, D.C. Cir. No. 76-1694. IPR on the other hand, believes that the Commission should exercise its discretion to order refunds or to refuse to order refunds, of any rates collected by producers above the ceiling rates ultimately determined to be just and reasonable.

Under section 4(e) of the Natural Gas Act, the Commission always retains the power to order refunds of any rates collected by a natural gas company in excess of the rates determined by the Commission to be just and reasonable. Since we believe that the rates prescribed herein are just and reasonable, it would be incongruous for us now to anticipate the reversal of this opinion by a reviewing Court, and to require refunds at this time.

If this opinion is subsequently reversed or remanded by a reviewing Court, the Commission would treat the issue of refunds on the merits based upon then existing circumstances. The question of whether to order refunds of any of the amount of monies collected by natural gas companies under the opinion presents questions of equities which should be weighed only after it has been determined that excessive rates have been collected. *Consumer Federation of America v. FPC*, 515 F.2d 347, cert denied, 423 U.S. 906 (1975).

The Commission in the past has exercised a number of available options when rates collected were later found to be unjust and unreasonable, e.g., the ordering of monetary refunds; directing the use of excessive funds; providing for natural gas work-off credits; or foregoing the ordering of refunds. To restrict these options by now requiring refunds, if the rates herein are later found to be excessive, would severely limit the Commission's flexibility to deal with factors which are not knowable at this time.

In any event, we find that the rates established herein are just and reasonable, and we are confident that they will be upheld upon review by a Court, if any such review is sought. Accordingly, the suggestion of APGA, NYPSC and Buffalo is rejected.

In accordance with the Commission's order of August 13, 1976,¹⁰⁷ requiring refunds of any rates collected over and above those ultimately prescribed in this proceeding, we will require any producers to refund to their purchasers any amounts collected for sales which previously qualified for a higher rate under Opinion No. 770, but which herein have been determined to be ineligible for such higher rate.

More specifically, those sales by both large and small producers that previously qualified for the \$1.42 per Mcf rate (plus 1¢ per quarter escalation) under the "first dedication" classification,¹⁰⁸ rather than the "well commencement" classification,¹⁰⁹ no longer qualify for that rate, and are limited to the rate prescribed in 18 CFR § 2.56a(a)(3) (if the subject well were commenced in the 1973-1974 biennial), or the rate prescribed in 18 CFR § 2.56a(a)(5) (if the subject well were commenced prior to January 1, 1973).

Similarly, those sales, other than small producer sales, that previously qualified for the \$1.01 per Mcf rate (plus 1¢ per annum escalation) under the "first dedication" classification,¹¹⁰ rather than the "well commencement" classification,¹¹¹ no longer qualify for the rate prescribed in 18 CFR 2.56a(a)(3), and are limited to the rate prescribed in 18 CFR 2.56a(a)(5).

Those sales made by small producers that qualified for 130% of the \$1.01 per Mcf rate (plus 1¢ per annum escalation) under the "first dedication" classification, rather than the "well commencement" classification, no longer qualify for 130% of the rate prescribed in 18 CFR 2.56a(a)(5).

In all of the above instances, producers are required to refund to their purchasers any amounts collected in excess of the respective rates established in this Opinion or in Opinion Nos. 742, et seq.

J. OPTIONAL PROCEDURE DELIVERIES

IPR has requested that 18 CFR 2.56a(a)(1)(ii) and (3)(ii) of the Commission's Regulations be amended. These subsections provide that certain sales may qualify for the new national rates "provided that no certificate for the subject sale has been issued under the op-

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tional procedure (18 CFR 2.75)." IPR submits that such sales may qualify provided that a final certificate no longer subject to appeal has not been issued and accepted for the subject sale under the optional procedure.

In Opinion No. 770, we have adopted the same position set forth by the Commission in Opinion Nos. 699-H and 699-I.²⁰⁹ The Commission addressed the very issue raised by IPR in Opinion No. 699-I, where the Commission said:

In providing that producers who had filed for certificates pursuant to the optional procedure could receive the national rate, we did not intend that those producers would be permitted to receive the national rate where such rate is more beneficial to the producer than the rate which was sought under the optional procedure and where deliveries have commenced pursuant to the optional procedure. That is the holding of the Texas Gas Exploration Corporation (Footnote omitted) case and Opinion No. 699-H does not reverse that holding.

Opinion No. 699-H and section 2.56a(a) (2) (ii) were not intended to allow any producer who has commenced sales pursuant to section 2.75(n) (Footnote omitted) to file for the national rate in lieu of the applied for contract rate under the optional procedure. Initially, a producer has the choice of applying for a certificate under the optional procedure or the national rate, but after a choice has been made and the benefits of either certification procedure obtained, the producer does not have "the benefit of choosing the most advantageous (to it) of the two certification procedures authorized by the Commission without any resulting benefit to the purchasing pipeline or gas consumers dependent thereon. (Footnote omitted) We affirm our holding in Texas Gas Exploration Corporation that a producer who has enjoyed the benefits of the Order No. 455 may not renounce the burdens of that order in an attempt to gain the more "advantageous (to it)" burdens and benefits of the national rate structure. (Footnote omitted) Opinion No. 699-H and section 2.56a(a) (i) and (ii) must be construed in light of this holding.

Because of the potential for confusion exists, we find that it is in the public interest to amend section 2.56a(a) (ii) as hereinafter set forth in Ordering Paragraph (A) to define the terms and conditions under which sales commenced pursuant to the optional procedure may be certificated at the national rate. Where the average price and escalations provided for in the contract filed pursuant to the optional procedure are equal to or greater than the average price determined pursuant to the national rate regulations without regard for any price increases which might result from the biennial review of the national rate pursuant to section 2.56a(n) (Footnote omitted) the Commission will determine whether to allow the producer the just and reasonable rate under the national rate structure, provided no certificate for the subject sale has been issued pursuant to § 2.75.

Where the contract originally filed pursuant to the optional procedure has been amended since the date of filing, the producer will not be permitted to receive the national rate in lieu of the contract price unless the producer can demonstrate at a hearing before an administrative law judge that the benefits under the national rate regulations are less than the benefits under the amended con-

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tract and that the contract was not amended solely for the purpose of attempting to gain the benefits of section 2.56a. This limitation is not in derogation of the producer's right to receive the national rate pursuant to section 2.75(o) as amended by Order No. 455B, F.P.C. (November 25, 1974)."

K. STATE REGULATORY COMMISSIONS

In the oral argument conducted September 16, 1976 in this proceeding, the State of Utah (Utah) requested that the Commission reconsider the \$1.42 per Mcf rate determination as being excessive. Utah also informed the Commission that under present state law, Mountain Fuel would not be able to pass through the purchased gas cost increases, which were effective immediately under Opinion No. 770, for at least 30 days. Accordingly, Utah joins Mountain Fuel in opposing the immediate effectiveness of the rates prescribed in Opinion No. 770.

Mountain Fuel is one of the two gas distribution companies operating in the State of Utah. Approximately two-thirds of its gas supplies are purchased from outside the state. Under Utah law, Mountain Fuel must make a rate filing and give 30 days notice before an increased rate can take effect. If it is not permitted to recoup the rate increase provided in Opinion No. 770 for the 30 days notice period, Mountain Fuel submits that it will lose approximately \$2.3 million.

As pointed out by both Utah and Mountain Fuel, the flowthrough of rate increases during the 30 day notice period is possible through a surcharge if the Utah Public Service Commission permits such after formal hearing. However, Mountain Fuel was apparently denied the surcharge after hearing for the rate increases established in Opinion No. 699.²¹⁰

In making the rate increases effective on July 27, 1976, we recognized the urgent need to secure new supplies of gas for the interstate market, and the one and one-half year delay involved in the issuance of Opinion No. 770.²¹¹ At the same time, we could not justify making these rate increases effective retroactively because of the effect that such a determination would have on the consumer. Therefore, we permitted these just and reasonable rates to go into effect on the date of our rate determination.

While we are mindful of the potential hardship that Mountain Fuel could endure if the Utah Public Service Commission refuses to grant the surcharge, we can only conclude that in this situation, the problem lies not with the Commission, but with the State of Utah. We have determined rates that are just and reasonable and that such rates should have been made effective on the date of that determination.

The State of New Mexico (New Mexico) has also raised a relatively unique problem in its oral argument. New Mexico law does not preclude natural gas producers from including so called "favored nations clauses" in their con-

tracts, which have the effect of increasing all intrastate rates to the \$1.42 level established in Opinion No. 770.

At the same time, interstate rates would remain at the various "vintaged" rates, e.g., 29.5 cents, 52 cents and 93 cents, established by the Commission for sales interstate commerce. New Mexico argues that the continuance of the vintaging concept works an undue hardship on the citizens of New Mexico who would be forced to pay the highest \$1.42 rate for all gas supplies, while recipients of gas transported from New Mexico in interstate commerce would be purchasing the majority of such gas at the lower "vintaged" rates.

New Mexico has a very special problem. It is one of the largest producing States of natural gas, yet has a very limited intrastate market for its purchase. This has served to keep the intrastate price at a relatively low level.²¹² However, by permitting producers to include indefinite escalation clauses in their contracts, all intrastate prices will now escalate to the \$1.42 level.

The Commission dealt with this problem in interstate sales contracts in the Pure Oil case²¹³ where it held that indefinite escalation clauses were contrary to the public interest. Increases in producer prices, triggered by indefinite escalation clauses, result in a flood of almost simultaneous filings. These filings bear no apparent relationship to the economic requirements of the producers who file them. Since the Natural Gas Act contemplates that prices, to be just and reasonable, be related to economic needs, so called "favored nations clauses" were held to be inoperative.²¹⁴

Many States have followed the example of the Commission by making such indefinite escalation clauses unlawful. We now urge New Mexico to do the same. If we were to adopt the suggestion of New Mexico to establish a single uniform rate based on average costs over time, producers would clearly not have the incentive to produce the gas needed by the Nation. Furthermore, if we were to adjust the cost-based national rates established herein to resolve an admittedly unique problem of an individual State, we would be sanctioning a contractual arrangement that we previously found contrary to the public interest. Again this is a problem the solution to which rests with the State.

L. PERMANENT CERTIFICATES

In response to the requests of IPR concerning Section 7(c) certificate applications, we shall provide that permanent certificates be granted in those cases where a pending Section 7(c) certificate application for gas qualifying under this Opinion was on file as of July 27, 1976, at the rates established in Section 2.56a of the Statements of General Policy and Interpretations of the Commission as determined in this Opinion.

Certificates of public convenience and necessity for those certificate applications, other than those for sales in the

Federal Domain, which had been noticed and for which the period for filing protests or interventions had expired prior to July 27, 1976, are hereby issued as listed in Appendix C hereto. Applications for sales in the Federal Domain and those applications which either had not been noticed prior to July 27, 1976, or for which the notice period had not expired, will be considered in the future.

The applicants have filed FPC gas rate schedules or supplements to rate schedules on file with the Commission proposing to initiate, add, or succeed to natural gas service in interstate commerce. Those FPC gas rate schedules or rate schedule supplements are now or have heretofore been accepted for filing and designated as indicated in Appendix C hereto.

The authority granted herein is specifically conditioned to the rate and charge set forth in § 2.56a of the Commission's General Policy and Interpretations. Consistent therewith, the initial rate shall be the lesser of the rate provided in the contract or the national rate provided in this Opinion.

There shall be filed, within 30 days from the date of initial delivery three copies of a revised billing statement which clearly sets forth the components of the initial rate to be charged.

For good cause shown, § 154.93 of the Commission's regulations is hereby waived to the extent necessary to permit filing of the contracts which contain impermissible pricing provisions and/or provide for excess royalty payments. The granting of such waiver, however, does not constitute approval of such provisions and any rate increase based on said pricing provisions to the extent it is inconsistent with the provisions of § 154.93 of the Commission's regulations is subject to rejection.

All persons making jurisdictional sales pursuant to the authority granted by these certificates are hereby given notice that the contractual obligations between the buyers and the sellers are incorporated into the certificate obligations, and that the certificates are further conditioned to require that the sellers shall observe the standard of a prudent operator to develop and maintain deliverability from reserves dedicated hereunder.²⁵

M. ENFORCEMENT OF CONTRACTS AND REGULATION OF THE INTRASTATE MARKET

Finally, in their applications for rehearing, APGA and Congressmen ask that the Commission consider the enforcement of existing certificates and contracts as an alternative to the rate increases in Opinion No. 770, for the purpose of bringing forth new supplies of natural gas for the interstate market. Service obligations of producers under sections 4, 5, and 7²⁶ of the Natural Gas Act, do not answer the questions of cost and rates with which the Commission is here concerned. Moreover, the arguments disregard the urgent need of the Nation's

natural gas consumers to elicit new supplies of gas for the interstate market. As we have indicated in this opinion and in Opinion No. 770, cost factors, non-cost factors, and the statistical evidence of decreasing production and dedication of gas to the interstate market, all prove the necessity for rates sufficient to generate the vast amount of new exploration and development needed to fulfill our Nation's future energy demands.

The enforcement of presently outstanding certificates is a matter to be considered separately from a rate proceeding such as this. The Commission is exercising its responsibility to oversee the continuing and on-going service obligations of natural gas companies under the Natural Gas Act.²⁷ See, for example, Order No. 539-B, Order Clarifying Prior Orders and Amending Section 157 of the Commission's Regulations under the Natural Gas Act, July 30, 1976, appeal pending *Shell Oil Co. v FPC*, CA 5, No. 76-3066; 18 CFR 157.41; Notice of Proposed Rulemaking, entitled "Rate Schedule Analysis on the Continuing Basis: FPC Form No. 108," issued December 17, 1975, Docket No. RM76-10; and Opinion No. 780, Gulf Oil Corp., et al., issued October 15, 1976.

APGA advances the additional argument that the Commission should undertake to regulate the intrastate activities of jurisdictional natural gas companies. The Commission does not have statutory authority to do so. This identical argument was made by APGA in a petition filed with the Court of Appeals for the District of Columbia Circuit in *APGA, et al. v FPC*, No. 75-1998. That petition was denied per curiam in an order of the Court dated March 3, 1976.

APGA's argument is essentially an attempt to apply the Supreme Court's 1914 construction of the Interstate Commerce Act in *Houston East & West Ry. Co. v United States*, 234 U.S. 342 (The Shreveport case) to the subsequently enacted Natural Gas Act. It is plain, however, that Congress knew of and specifically disavowed Shreveport in enacting the Natural Gas Act. From the beginning Congress made it clear that the Commission would have no authority to regulate intrastate supplies of natural gas.

The scope of FPC jurisdiction to regulate natural gas is set forth in Section 1(b) of the Act, 15 U.S.C. 717(b):

The provisions of this act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.

"Interstate commerce" is defined in section 2(7), 15 U.S.C. § 717a(7), as:

... commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof but only

insofar as such commerce takes place within the United States.

The Supreme Court has on several occasions carefully defined the limits of the Commission's Congressionally authorized jurisdiction under the above-quoted provisions of the Act.²⁸ Foremost among these is *Panhandle Pipe Line Co. v Public Service Commission of Indiana*, 332 U.S. 507 (1947), where the Court measured the FPC's jurisdiction under Section 1(b) as follows:

Three things and three things only Congress drew within its own regulatory power, delegated by the Act to its agent, the Federal Power Commission. These were: (1) the transportation of natural gas in interstate commerce; (2) its sale in interstate commerce for resale; and (3) natural gas companies engaged in such transportation or sale.

The omission of any reference to other sales * * * in the affirmative declaration of coverage was not inadvertent. It was deliberate. For Congress made sure its intent could not be mistaken by adding the explicit prohibition that the Act "shall not apply to any other * * * sale * * * ." [Court's emphasis, 332 U.S. at 516]

Moreover, with the Commission's authority thus limited, the Act "had no purpose or effect to cut down state power" (332 U.S. at 517). In differentiating the relative spheres of state and federal regulation resulting from operation of the Act, the Court quotes the following legislative history:

The States have, of course, for many years regulated sales of natural gas to consumers in intrastate transactions. The States have also been able to regulate sales to consumers even though such sales are in interstate commerce, such sales being local in character and in the absence of Congressional prohibition subject to State regulation. (See *Pennsylvania Gas Co. v Public Service Commission* (1920), 252 U.S. 23.) There is no intention in enacting the present legislation to disturb the States in their exercise of such jurisdiction.²⁹

Based on the foregoing analysis the Court concluded in *Panhandle*, with respect to the Congressional intent embodied in the Act:

Congress, it is true, occupied a field. But it was meticulous to take in only territory which this Court had held the state could not reach.

The Natural Gas Act therefore was not merely ineffective to exclude the sales now in question from state control. Rather both its policy and its terms confirm that control (332 U.S. at 519, 521).

See also, S. Rep. No. 1162, 75th Cong. 1st Sess. 2-3 (1937).

Thus, APGA's claim that the Commission has the power to regulate the intrastate market is simply wrong. The teaching of *Panhandle* as recently reaffirmed by the Supreme Court in *F.P.C. v Louisiana Power & Light Co. (LP&L)*, 406 U.S. 621, 636-641 (1972),³⁰ is simply this: (1) Prior to enactment of the Natural Gas Act the several states had certain, constitutionally permissible authority to regulate the supply of natural gas within their respective domains,

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including direct sales in interstate commerce and wholesale and retail sales in intrastate commerce; (2) Congress, in enacting the Natural Gas Act of 1938 did not choose to abrogate those regulatory responsibilities theretofore permissibly assumed by the states.

Despite the clear demarcation between state and federal authority to regulate natural gas, Petitioners claim, relying on *Shreveport*, supra, that this Commission has authority "to take whatever actions are necessary to assure that interstate commerce is not discriminated against" by "intrastate rates" (Pet., p. 7). *Shreveport* upheld the ICC's authority under the Interstate Commerce Act to modify intrastate rates, not otherwise subject to its jurisdiction, when necessary to prevent discrimination against interstate commerce. However, nowhere in the Interstate Commerce Act does there appear language in any way resembling the broad prohibitions of Section 1(b) of the Natural Gas Act, 15 U.S.C. § 717(b), which, after defining the area in which the Commission may act, expressly states that the authority thus granted does not:

* * * apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas. (Italics added.)

Similarly, the anti-discrimination provisions of Section 4(b) of the Act, 15 U.S.C. § 717c(b), upon which Petitioners' argument is based, limits the Commission's remedial powers to "any transportation or sale of natural gas subject to the jurisdiction of the Commission." Section 4(b) provides:

No natural-gas company shall, with respect to any transportation or sale of natural gas subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes or service. (Italics added.)

By contrast, section 3 of the Interstate Commerce Act, 49 U.S.C. 3, vests the ICC with far broader authority to remedy discriminations:

It shall be unlawful for any common carrier subject to the provisions of this chapter to make, give, or cause any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, region, district, territory, or any particular description of traffic, in any respect whatsoever; or to subject any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, region, district, territory, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided, however*, That this paragraph shall not be construed to apply to discrimination, prejudice, or disadvantage to the traffic of any other carrier of whatever description.

The key difference between the two provisions is that in remedying discrimina-

tion the ICC, unlike the FPC, is not limited to "any transportation or sale * * * subject to the jurisdiction * * *" of the ICC. That difference in language formed the very basis of the Supreme Court's decision in *Shreveport*. As the Court stated in *Shreveport*, in reference to the language of Section 3 (234 U.S. at 356):

This language is certainly sweeping enough to embrace all the discriminations of the sort described which it was within the power of Congress to condemn. There is no exception or qualification with respect to an unreasonable discrimination against interstate traffic produced by the relation of intrastate to interstate rates as maintained by the carrier.

In short, the Commission has no jurisdiction to remedy discrimination caused by rates for natural gas sold in the intrastate markets by regulating the intrastate rates. As the Court of Appeals for the District of Columbia Circuit stated in *Mobile Oil Corp. v. FPC*, — U.S. App. D.C. —, 463 F. 2d 256, 263 (D.C. Cir. 1972), while preventing discrimination may be an otherwise valid concern:

* * * it is not sufficient justification upon which to base an expansion of the Act to activities clearly not within its terms. * * * The FPC is limited by the provision[s] establishing its jurisdiction * * *.

Accordingly, as the Supreme Court stated in *Panhandle*, supra, APGA's remedy "is the power of Congress to correct abuses in regulation if and when they appear" (332 U.S. at 522). See also *FPC v. Conway Corp., et al.*, 44 Law Week 4777, wherein the Court held that the Commission is correcting the effects of unlawful discrimination may not "in-vade a nonjurisdictional area * * *."

For the reasons stated above, this suggestion of APGA is hereby rejected.

VIII. CONCLUSION

The just and reasonable national base rate for qualifying post-December 31, 1974 gas supplies dedicated to the interstate market is \$1.42 per Mcf, escalating one cent per quarter. The revised just and reasonable base rate for qualifying 1973-1974 biennium gas supplies is \$0.93 per Mcf, escalating one cent per year. The just and reasonable rate for gas qualifying under "expiring contracts" is \$0.52 per Mcf, escalating one cent per year. Each of the elements of the rate structures is dependent upon all of the other elements and stands not by itself but as part of the whole.

Natural gas fills the energy needs of millions of homeowners throughout the country. It should also be noted that natural gas has been supplying almost 50 percent of the energy consumed by the industrial sector of the economy.²²¹ The availability of increased gas supplies to the industrial sector, particularly to those industries where gas cannot be efficiently replaced with other fuels, will contribute to increased productivity and a growing national economy. Failure to provide adequate rates would ultimately lead to greater unemployment and an adverse impact upon the Nation's economy, environment, and quality of life.

We have "adopted a total rate structure to motivate private producers to fully develop (the Nation's natural gas) resources" while assuring the consumer an adequate supply of gas at a reasonable rate. This total rate structure represents a solution "capable of equitably reconciling the diverse and conflicting interests" which are presented on the record of this proceeding.

Both the \$1.42 and \$.93 rates represent "increased prices that would help in generating capital funds and in meeting rising costs * * * and which are * * * deemed necessary to expand future production." The rates and the periodic escalations of these rates are necessary to ensure the allowance of a just and reasonable cost-based rate and "were a proper subject for the exercise of administrative discretion."

The continuance of the "roll over" contract treatment also permits flowing gas to bear part of the capital formation burden for future exploration and development activities. The Supreme Court in *Mobil Oil Corp. v. F.P.C.*, supra, has upheld this decision to "place the burden of those payments on all users rather than on those alone who purchased gas in the future." We "have reached a well considered, expert decision on this issue" and found that "a commitment of new funds is necessary to alleviate the natural gas shortage."

Therefore, we are of the opinion that the "overall balance" of the rate structure established herein is just and reasonable.

The Commission finds:

(1) The notice and opportunity to participate in this rulemaking proceeding with respect to the matters currently before this Commission through the submission in writing of data, views, comments and suggestions in the manner described above are consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) Because of the administrative delays experienced on the issuance of Opinion No. 770 and the urgent need for production of new supplies of natural gas for the interstate market, good cause exists for the revisions adopted herein to become effective July 27, 1976, the date of the issuance of Opinion No. 770.

(3) The revisions adopted herein are in the public interest and are necessary and appropriate for the proper administration of the Natural Gas Act. It is necessary and appropriate for the purposes of that Act to order as hereinafter provided.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 4, 5, 7, 8, 14, 15, and 16 thereof (52 Stat. 823, 823, 824, 825, 828, 829, 830 (1938); 56 Stat. 83, 84 (1942); 61 Stat. 459 (1947); 76 Stat. 72 (1962); 15 U.S.C. 717c, 717d, 717f, 717g, 717m, 717n, 717o (1970)), orders:

(A) The Statements of General Policy and Interpretations of the Commission, Part 2 of Subchapter A of Chapter I of Title 18 of the Code of Federal Regula-

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tions, are hereby amended by revising § 2.56a as follows:

§ 2.56a National rates for sales of natural gas from wells commenced on or after January 1, 1973, and certain other sales.

(a) *Base national rates.* Notwithstanding any other provisions of the General Rules of the Federal Power Commission, or the Regulations under the Natural Gas Act, sales of natural gas in interstate commerce which qualify under the provisions of this subsection (a) may be made at rates herein provided.

(1) Sales of natural gas in interstate commerce for resale may be made at a rate of \$1.42 per Mcf (at 14.73 psia), exclusive of all State or Federal production, severance or similar taxes, and subject to the adjustments provided in this § 2.56a, and the escalation provided in paragraph (a) (2), provided:

(i) The sale is made from a well commenced on or after January 1, 1975.

(2) The price prescribed by paragraph (a) (1) of this section may be increased by an amount not to exceed 1 cent per Mcf per quarter commencing on October 1, 1976, and the first days of January, April, July, and October of every year, thereafter, for the term of the contract dedicating the subject gas for sale in interstate commerce pursuant to the terms of the sales contract until such time as the price prescribed in paragraph (a) (1) shall be redetermined according to the provisions of paragraph (m) of this section.

(3) Sales of natural gas in interstate commerce for resale may be made at a rate of \$0.93 per Mcf (at 14.73 psia), exclusive of all State or Federal production, severance or similar taxes, and subject to the adjustments provided in this section, and the escalation provided in paragraph (a) (4) of this section, provided:

(i) The sale is made from a well commenced on or after January 1, 1973, and prior to January 1, 1975.

(4) The price prescribed by this paragraph (a) (3) of this section may be increased by an amount not to exceed 1.0 cent per Mcf per annum commencing on January 1, 1977, and the first day of every year thereafter for the term of the contract dedicating the subject gas for sale in interstate commerce pursuant to the terms of the sales contract until such time as the price prescribed in paragraph (3) of this subsection (a) shall be redetermined according to the provisions of paragraph (m) of this section.

(5) Sales of natural gas in interstate commerce for resale may be made at a rate of 52 cents per Mcf (at 14.73 psia), exclusive of all State or Federal production, severance or similar taxes, and subject to the adjustments provided in this § 2.56a, and the escalation provided in paragraph (a) (6), provided the sale is made pursuant to a replacement contract where the sale was formerly made pursuant to a permanent certificate of unlimited duration under such prior con-

tract which expired of its own term on or after January 1, 1973, or pursuant to a contract executed on or after January 1, 1973, where the prior contract expired by its own terms prior to January 1, 1973.

(6) The price prescribed by this paragraph (a) (5) may be increased by an amount not to exceed 1.0 cent per Mcf per annum commencing on January 1, 1977, and the first day of every year thereafter for the term of the contract dedicating the subject gas for sale in interstate commerce pursuant to the terms of the sales contract until such time as the price prescribed in paragraph (a) (5) of this section shall be redetermined according to the provisions of paragraph (m) of this section.

(b) *Tax adjustments.* The applicable rates prescribed in paragraph (a) of this section shall be adjusted upward for all State or Federal production, severance, or similar taxes, effective the date deliveries are commenced, and shall be adjusted upward by 100 percent of any increase in such taxes subsequent to the date deliveries were commenced, and shall be adjusted downward by 100 percent of any decrease in such taxes subsequent to the date deliveries were commenced.

(c) *Quality adjustments.* For natural gas sold in interstate commerce for resale at any of the rates prescribed in paragraph (a) of this section, quality standards and the resulting adjustments to the base national rate shall be made as follows:

(1) *Btu Adjustment.* (i) For natural gas containing more than 1,000 Btu's per cubic foot, at 60°F. and 14.73 psia, upward adjustments shall be made on a proportional basis from a base of 1,000 Btu's per cubic foot; and for natural gas containing less than 1,000 Btu's per cubic foot, at 60°F. and 14.73 psia, downward adjustments shall be made on a proportional basis from a base of 1,000 Btu's per cubic foot.

(ii) This adjustment shall be made after the rate prescribed in paragraph (a) of this section is adjusted for taxes pursuant to paragraph (b).

(iii) The Btu content of the natural gas used in computing this rate adjustment shall be the number of British thermal units (Btu) produced by the combustion, at constant pressure, of the amount of the gas which would occupy a volume of 1.0 cubic foot at a temperature of 60° F. saturated with water vapor and under a pressure equivalent to that of 30.00 inches of mercury at 32° F. and under standard gravitational force (980.-665 centimeters per second squared) with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by combustion is condensed to the liquid state.

(2) *Other quality adjustments.* All quality standards and the resulting adjustments to the rates prescribed in paragraph (a) of this section shall be made in accordance with the provisions of the particular gas sales contract except that

all Btu adjustments shall be governed by paragraph (a) (1) of this section.

(d) *Gathering allowances.* The base national rates prescribed in subsection (a) of this Section, as adjusted for Btu content and applicable taxes, shall be adjusted for gathering activities as follows:

(1) *Appalachian-Illinois basin areas.* The gathering allowance shall be 1.0 cent per Mcf for all sales of natural gas made from wells located in the Appalachian-Illinois Basin Areas.

(2) *Hugoton-Anadarko area.* The gathering allowance shall be the amounts prescribed below where delivery of the gas is made after substantial off-lease gathering by the producer, whether at a plant tailgate or at a central point in the field.

(i) For gas produced in the Panhandle and Hugoton Fields, the allowance shall be 2.5 cents per Mcf.

(ii) For gas produced from fields or reservoirs other than the Panhandle or Hugoton Fields (the "Other Fields"), the allowance shall be 1.0 cent per Mcf.

(3) *Other southwest area.* The gathering allowance shall be the amounts prescribed below where the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline.

(i) For gas produced in the Other Oklahoma Area, Texas Railroad District No. 9, and Northern Arkansas, the allowance shall be 1.5 cents per Mcf.

(ii) For gas produced in Texas Railroad District Nos. 5 and 6, Northern Louisiana, and Southern Arkansas, the allowance shall be 1.0 cent per Mcf.

(iii) For gas produced in Mississippi and Alabama, the allowance shall be 1.25 cents per Mcf.

(4) *Permian basin area.* For gas produced in the Permian Basin Area, the applicable gathering allowance shall be 1.5 cents per Mcf where delivery is made after substantial off-lease gathering by the producer, whether at a plant tailgate or a central point in the field.

(5) *Rocky Mountain area.* For gas produced in the Rocky Mountain Area, the applicable gathering allowance shall be 1.0 cent per Mcf where delivery is made to the buyer at a central point in the field, the tailgate of a processing plant, or a point on the buyer's pipeline.

(6) *Southern Louisiana area.* For gas produced in the Southern Louisiana Area, the applicable gathering allowance shall be 0.5 cent per Mcf where the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline.

(7) *Texas Gulf Coast area.* For gas produced in the Texas Gulf Coast Area, the applicable gathering allowance shall be 0.4 cent per Mcf where the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline.

Footnotes at end of document.

(e) *Delivery of offshore gas by the producer to an onshore area.* If natural gas produced offshore is delivered onshore, at the sole cost of producer, the uniform national rates shall be adjusted upward 1.0 cent per Mcf for such offshore gas.

(f) *Adjusted national rate.* The uniform national rates prescribed in paragraph (a) of this section, as adjusted pursuant to paragraphs (b), (c), (d), and (e), are the adjusted national rates, and such rates are applicable only to those jurisdictional sales described in paragraph (a) of this section made within the United States including the adjacent offshore Federal domain but excluding Alaska and Hawaii. No seller may demand or receive any rate or charge in excess of the rates prescribed by paragraph (a), except for such adjustments described in paragraphs (b), (c), (d), and (e) of this section as may be applicable to the particular sale, unless the Commission after giving proper notice and providing an opportunity for the submission of comments shall modify the rates set forth in subsection (a) or grant a petition for special relief pursuant to subsection (g) of this Section.

(g) *Special relief.* Prior to the establishment of rates for the 1977-78 biennium pursuant to subsection (m), any seller seeking to charge a rate in excess of the adjusted national rates described in paragraph (f) of this section or requesting a change in either the base national rates prescribed in paragraph (a) or the adjusted national rates described in paragraph (f) must file a petition seeking special relief for waiver or amendment of said subsections pursuant to § 1.7(b) of the Commission's rules of practice and procedure (18 CFR 1.7(b)) fully justifying the relief sought in light of this order. Such seller may not file for any rate increase which results in a rate in excess of the adjusted national rates described in paragraph (f) unless and until the Commission grants such petition for special relief.

(1) *Drilling depths greater than 15,000 feet and water depths greater than 250 feet.* For sales of natural gas made from wells with a total depth greater than 15,000 feet (8,000 feet in the Appalachian and Illinois Basin Areas) and/or located in water depths greater than 250 feet, the seller may petition the Commission for relief from the rates established in paragraph (f) of this section and such relief may be granted by the Commission upon a showing that total cost of producing such gas is in excess of the rates established in this decision.

(h) *Modification of area rate regulations.* To the extent that the Commission's Regulations Under the Natural Gas Act establishing area rates and conditions for sales of natural gas from the Southern Louisiana Area (18 CFR 154.105), Hugoton-Anadarko Area (18 CFR 154.106), Appalachian Basin Area (18 CFR 154.107), Illinois Basin Area (18 CFR 154.109), Other Southwest Area (18 CFR 154.109a), or Rocky Mountain Area (18 CFR 2.56(a), 154.109(b)), and the Permian Basin Area are inconsistent

with the provisions set forth above the same are hereby modified to reflect the provisions set forth above. The provisions of the rate structures for these areas are modified only with respect to those sales which are certificated pursuant to the provisions of this Section and in all other respects remain in full force and effect. Provisions pertaining to refund credits and contingent escalations are contained in paragraph (i) of this section.

(i) *Waiver of refund credits and contingent escalations.* Any natural gas certificated under the provisions of this Section which a natural gas producer elects to have credited against his existing refund obligations in the Southern Louisiana, Texas Gulf Coast, Other Southwest, or Permian Basin areas, or applied to the triggering volumes for the contingent escalations for those areas, shall be priced at the rate prescribed in the applicable area rate opinion and not at the uniform national rates prescribed in this opinion. For purposes of opinions Commission regulations are: this Section the applicable area rate opinions and Commission regulations are:

(1) *Area Rate Proceeding (Texas Gulf Coast Area), et al.,* Opinion No. 595, 45 F.P.C. 675 (1971); 18 C.F.R. § 154.109.

(2) *Area Rate Proceeding (Southern Louisiana Area), et al.,* Opinion No. 598, 46 F.P.C. 86 (1971); 18 C.F.R. § 154.105.

(3) *Area Rate Proceeding (Other Southwest Area), et al.,* Opinion No. 607-A, 47 F.P.C. 99 (1972); 18 C.F.R. § 154.109a.

(4) *Area Rate Proceeding (Permian Basin Area II),* Docket No. AR70-1 (Phase I), Opinion No. 662, 50 F.P.C. 390 (1973).

With respect to gas of a class described in subsection (a) which is currently being sold in interstate commerce in discharge of a refund obligation or was dedicated to interstate commerce in partial satisfaction of the triggering volumes for the contingent escalations in the described areas, such gas may be sold at the rates prescribed in subsection (a) only if the seller files a written waiver of the right with respect to such gas to discharge such refund obligations or to trigger the contingent escalations concurrently with the contractually authorized rate increase filing. The seller shall further state the date on which the subject wells were commenced, the present provisions under which the gas is being sold in interstate commerce, the dollar amount of existing refund obligations previously discharged by the sale of such gas, and the volumes (at 14.73 psia) applied to trigger the contingent escalations.

(j) *Effective date of rate filings and waivers of refund credits or contingent escalations.* (1) Any contractually authorized increased rate filing made pursuant to the provisions of this order shall be effective as of July 27, 1976, if the filing is made on or before August 26, 1976, and any filing made thereafter will be subject to the thirty (30) day notice requirement.

(2) A single filing may be made which covers the rates to become effective July 27, 1976, and the 1.0¢ periodic escalations to be effective October 1, 1976, January 1, 1977, April 1, 1977, and July 1, 1977, provided such filing clearly and distinctly shows the rates to be effective on these respective dates.

(3) For those persons desiring to make separate filings to track the 1.0¢ periodic escalations to be effective October 1, 1976, January 1, 1977, April 1, 1977, and July 1, 1977, such filings will be subject to the thirty (30) day notice requirement. Any filings made after August 26, 1976, will be subject to the thirty (30) day notice requirement.

(k) *Pipeline production.* Natural gas production from leases owned by a pipeline or a pipeline affiliate may be priced at the rate prescribed in paragraph (a) pursuant to the provisions of § 2.66(c) of this part (18 CFR 2.66(c)).

(l) *Termination of rate ceiling.* The rates prescribed in subsection (a) shall remain in effect until such time as rates are established pursuant to subsection (m).

(m) *Review of national rate ceiling.* Prior to January 1, 1977, the Commission shall initiate such proceedings as shall be necessary to establish a just and reasonable rate to be effective from the date of establishment of rates by order of the Commission through December 31, 1978, for the sales described in subsection (a) and for all wells commenced on or after January 1, 1977, and prior to January 1, 1979.

(n) *Revision of § 2.56(h) (18 CFR 2.56(h)).* By Opinion No. 699, the Commission promulgated a national rate structure as subsection (h) of Section 2.56 of its General Policy Statements and Interpretations (18 CFR § 2.56(h)). By Opinion No. 699-E, said Section 2.56(h) was revised and designated as Section 2.56a (18 CFR § 2.56a). All certificates which may have been issued prior to this date pursuant to Section 2.56(h) are hereby amended to reflect the change in codification of the national rate structure.

(o) *Effective date.* The effective date of this § 2.56a is July 27, 1976.

(p) *Reporting requirements on new wells and completions.* Where a producer intends to drill a new well or perform a new completion operation within an established proration unit in the same reservoir, the producer is required to file a rate filing to collect the base rates prescribed in paragraphs (a) (1) and (3) of this section, and such filing shall be accompanied by a statement of eligibility for the rates prescribed in paragraphs (a) (1) and (3) of this section, justifying the need for the drilling of the new well or the performance of the completion operation. With each filing the producer will include as part of his statement of eligibility (1) a statement of the producer relating to the need for the drilling of a new well or the performance of a completion operation and the date of such drilling or recompletion, (2) a statement of the producer relating to the

Footnotes at end of document.

date of the initial drilling or recompletion of the existing well, (3) copies of all documents filed with or issued by local or State regulatory agencies relating to the drilling of the new well or the performance of the completion operation, (4) a statement by the local or State regulatory agencies relating to the need for an additional well or completion operation into the subject reservoir, and (5) a statement by the buyer of the gas that the gas qualifies for the rates established in paragraphs (a) (1) and (3) of this Section, or why the buyer believes it does not. The producer shall also furnish any additional material in its possession or available to it which the Commission may request in writing. Documents or other data previously filed with the Commission, whether by the producer or another, may be incorporated by reference in any filing hereunder.

(B) Any producer who has made a contractually authorized increased rate filing under the provisions of § 2.56a(j) of the Commission's regulations, as set forth in ordering paragraph (A) of Opinion No. 770, is required to make a new rate filing by November 12, 1976, in accordance with Opinion No. 770, as amended by the order on rehearing and as restated by the order of October 21, 1976, in Docket No. RM75-14, if such previous filing was not in accordance with this order on rehearing and the order of October 21, 1976, in Docket No. RM75-14. Any producer that had properly filed rate change filings in accordance with the order of October 21, 1976, in Docket No. RM75-14 which reflect the rate or rates established by this order on rehearing is not required to make new filings, but must file by November 12, 1976, a sworn affidavit of an authorized official attesting that such previous filings are in accordance with the order of October 21, 1976, in Docket No. RM75-14, and the rate or rates established by this order on rehearing. The failure of a producer to make such new filings or sworn statements by November 12, 1976, shall preclude the producer from charging the rates set forth in Opinion No. 770, as amended by this order on rehearing. Producers whose new filings or sworn statements are filed after November 12, 1976, will not be able to charge the rates set forth in Opinion No. 770, as amended by this order on rehearing until thirty days after date of filing of such affidavit or new filing.

(C) Any jurisdictional pipeline company may file a special PGA rate increase to be effective December 1, 1976, to track increased gas costs resulting from Opinion No. 770 as amended herein. A pipeline tracking producer increases only must file by November 22, 1976, while those who track pipeline increases only or a combination of pipeline and producer increases must file by November 24, 1976. The special rate increase will be limited to those independent producer increases actually filed with the Commission in conformity with Section 2.56a(j) of the Commission's Regulations and

Footnotes at end of document.

pursuant to Ordering Paragraph (A) of Opinion No. 770 as amended herein or to pipeline increases filed pursuant thereto. In addition, such pipeline may file a surcharge to become effective December 1, 1976, which will permit recovery of producer increases attributable to this opinion and collected from July 27, 1976, to the adjustment date. The surcharge may only include amounts computed utilizing the rates established herein and is to be effective for a twelve month period after the adjustment date and with a nine percent carrying charge during the duration of the charge.

In the event any pipeline chooses to utilize the adjustment dates of its effective PGA clause in lieu of the above adjustment date it may do so. In that event, the company may include a special surcharge resulting from Opinion No. 770 as amended by this order on rehearing which shall be effective for twelve months and will include interest. Should the special PGA filing not be timely submitted, the pipeline will be required to use its regular PGA adjustment dates.

(D) Any producer, whether large or small, which has collected a rate in excess of the rates established herein shall refund to the purchaser all amounts collected in excess of the applicable rates established in 18 CFR § 2.56a consistent with the order of August 13, 1976, in Docket No. RM75-14. Interest will be computed through the date of the refund, and all refunds shall be made within thirty days from the date of this order. Since the purchasers have not been permitted to flowthrough any increased rates to the producers as a result of the Commission's decision to defer the effective date of the purchased gas adjustment filings by the purchasers to December 1, 1976, there is no need to administer the flowthrough of such refunds. Therefore, no refund reports will be required of either the producers or the purchasers unless there is disagreement between such parties as to the amount of refunds due. In such cases the parties shall submit their disagreement to the Commission for resolution.

(E) Certificates of public convenience and necessity for those certificate applications, other than those for sales in the Federal Domain, which had been noticed and for which the period for filing protests or interventions had expired prior to July 27, 1976, are hereby issued as listed in Appendix C hereto. Applications for sales in the Federal Domain and those applications which either had not been noticed prior to July 27, 1976, or for which the notice period had not expired, will be considered in the future.

The FPC gas rate schedules or supplements submitted by applicants to cover the sales authorized herein are now or have heretofore been accepted for filing and designated as indicated in Appendix C hereto.

The authority granted herein is specifically conditioned to the rate and charge set forth in § 2.56a of the Commission's General Policy and Interpretations. Consistent therewith, the initial rate shall

be the lesser of the rate provided in the contract or the national rate provided in Opinion No. 770.

There shall be filed, within 30 days from the date of initial delivery three copies of a revised billing statement which clearly sets forth the components of the initial rate to be charged together with a statement demonstrating the applicability of the rate(s) indicated therein.

Section 154.93 of the Commission's regulations is hereby waived to the extent necessary to permit filing of the contracts which contain impermissible pricing provisions and/or provide for excess royalty payments. The granting of such waiver, however, does not constitute approval of such provisions and any rate increase based on said pricing provisions to the extent it is inconsistent with the provisions of Section 154.93 of the Commission's regulations is subject to rejection.

All persons making jurisdictional sales pursuant to the authority granted by these certificates are hereby given notice that the contractual obligations between the buyers and the sellers are incorporated into the certificate obligations, and that the certificates are further conditioned to require that the sellers shall observe the standard of a prudent operator to develop and maintain deliverability from reserves dedicated hereunder.

(F) Within 30 days of the date of this order, each respondent shall file a supplement to each applicable rate schedule, effective as of the effective date of this opinion, reflecting any reductions required to bring any or all of its previously accepted rates into conformity with the applicable adjusted national rates established herein.

(G) Section 2.56(f) of the Commission's General Policy Statements and Interpretations, Part 2 of Subchapter A of Chapter I, Title 18, Code of Federal Regulations, is amended by revising § 2.56(f) (3):

§ 2.56 Area price levels for natural gas sales by independent producers.

(f) * * *

(3) *Reservoirs Discovered on or After January 1, 1973.* The rate for new reservoirs discovered on or after January 1, 1973, as a result of a well completion or recompletion commenced prior to January 1, 1973, shall be priced at the rate determined by Section 2.56(a) (5).

(H) Section 2.66 of the Commission's General Policy Statements and Interpretations, Part 2 of Subchapter A of Chapter I, Title 18 of the Code of Federal Regulations, is unchanged so that paragraph (c) reads as follows:

§ 2.66 Pricing of new gas produced by pipelines and pipeline affiliates.

(c) *National Rate for Pipeline or Pipeline Affiliate Production.* Notwithstanding any other provision of this Section 2.66, natural gas production from any

lease owned by a pipeline company or a pipeline affiliate, regardless of the date of acquisition of the lease, shall be priced for ratemaking purposes at the rates prescribed in Section 2.56a(a) of this part if such production qualifies under the provisions set forth in Section 2.56a(a) of this part. The provisions of paragraph (f) of this section (18 CFR 2.56(f)) shall apply to natural gas production which qualifies for the national rate treatment pursuant to this paragraph (c).

(I) Section 154.109b of the Commission's Regulations under the Natural Gas Act, Part 154 of Subchapter E of Chapter I, Title 18, Code of Federal Regulations, is unchanged so that paragraph (d) reads as follows:

§ 154.109b Area rates—Rocky Mountain area.

(d) No rate or charge, made, demanded, or received under a rate schedule filed pursuant to this part for gas produced in the Rocky Mountain Area shall exceed 35.0 cents per Mcf measured at 14.73 psia and 60° F, subject to upward and downward Btu adjustment on a proportional basis from a base Btu content of 1,000 Btu's per cubic foot measured on a saturated basis, and exclusive of all State or Federal production, severance, or similar taxes, and sold under contracts dated on or after October 1, 1968, for wells commenced prior to January 1, 1973. This rate shall also be subject to a gathering allowance not to exceed 1.0 cent per Mcf where delivery is made to the buyer at a central point in the field, the tailgate of a processing plant, or a point on the buyer's pipeline.

(J) To the extent not granted herein, the applications for rehearing, reconsideration, or clarification of Opinion No. 770 are hereby denied. Opinion No. 770 is modified and changed to the extent herein provided, all in the manner set forth in this Opinion.

(K) The Secretary shall cause prompt publication of this order be made in the FEDERAL REGISTER.

By the Commission.²⁹⁹

KENNETH F. PLUMB,
Secretary.

APPENDIX A

APPLICATIONS FOR REHEARING AND RECONSIDERATION

Alabama Gas Corporation
American Public Gas Association, et al.
Associated Gas Distributors
Atlantic Gas Light Company
Austral Oil and Gas Company
Aztec Oil and Gas Company
Belco Petroleum Corporation
Central Illinois Light Company
Cities Service Gas Company

Footnotes at end of document.

Commonwealth of Pennsylvania, and Pennsylvania Public Utility Commission
Consolidated Natural Gas System Companies
Continental Oil Company
County of Erie, New York, and City of Buffalo, New York
East Tennessee Group
Ensearch Exploration, Inc.
GHK Company, and Gasnadarko, Ltd.
Georgia Public Service Commission
Indicated Producer Respondents
Interstate Natural Gas Association of America
Mountain Fuel Supply Company
Public Service Commission of the State of New York

Senator James Abourezk, et al.
South Dakota Public Utility Commission
State of New Mexico
Tennessee Public Service Commission
United Cities Gas Company
United Distribution Companies

INTERVENORS

Congressman Les Aspen, M.C.
Congressman Manuel Lujan, Jr., M.C.
Congressman James Oberstar, M.C.
Congressman Gerry E. Studds, M.C.
Congressman Harold Runnels, M.C.
Senator Hubert H. Humphrey
Senator Abourezk, et al.
County of Erie, New York and City of Buffalo, New York
Division of Public Utilities of the State of Utah

Georgia Municipal Association—Gas Section
George B. Kaiser
Montana Consumer Counsel
Rhode Island Public Utilities Commission
South Dakota Public Utility Commission
State of New Mexico
State of Utah
Public Service Commission of Wisconsin
East Tennessee Group
United Cities Gas Company
Tennessee Public Service Commission
Central Illinois Light Company
American Public Gas Association, et al.
Michigan Public Service Commission
New Mexico Public Service Commission

APPENDIX B

PARTICIPANTS IN ORAL ARGUMENT

Alabama Gas Corporation
American Public Gas Association, et al.
Aztec Oil & Gas Company, Belco Petroleum Corporation, Austral Oil Company, Inc.
Commonwealth of Pennsylvania and Pennsylvania Public Utility Commission
Congressman Manuel Lujan, Jr., New Mexico Energy Action Committee
Indicated Producer Respondents
Interstate Natural Gas Association of America
Mountain Fuel Supply Company
Public Service Commission of the State of New York
Senator Abourezk, et al.
Small Producers for Energy Independence
State of New Mexico
State of Utah
United Distribution Companies

Appendix C

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule	
			Description and date of document ¹	No. Supp.
G-3113 C 11-10-75	Exxon Corp.	El Paso Natural Gas Co. (Cooper Jal Field, Lea County, N. Mex.).	Letter agreement 9-18-75. Amend, agreement 10-24-75.	31 30
G-3894 C 2-28-72	Atlantic Richfield Co.	Transcontinental Gas Pipe Line Corp. (Greta Field, Refugio County, Tex.).	Amendment 2-11-72.	41 20
G-4614 C 9-25-75	Aztec Oil & Gas Co.	El Paso Natural Gas Co. (acreage in San Juan County, N. Mex.).	Contract 9-1-75.	2 9
G-11637 C 4-21-76	Gulf Oil Corp.	El Paso Natural Gas Co. (Jal-mat Field, Lea County, N. Mex.).	Agreement 11-12-75.	63 42
G-14548 C 11-24-75	American Petrofina Co. of Texas.	El Paso Natural Gas Co. (San Juan Field, San Juan County, N. Mex.).	Supplemental agreement 1-29-75.	19 22
CI61-1176 C 8-13-73	Exxon Corp.	Tennessee Gas Pipeline Co. (Bully Camp Field, Lafourche Parish, La.).	Amendment 7-1-73.	269 20
CI61-1565 C 3-30-76	Anadarko Production Co.	Panhandle Eastern Pipe Line Co. (East Postle Field, Texas County, Okla.).	Amendment 9-18-75.	40 6
CI63-1200 C 8-11-75	Amoco Production Co.	Northern Natural Gas Co. (North Puckett Field, Pecos County, Tex.).	Letter agreement 1-2-75.	369 15
CI65-606 C 11-10-75	Exxon Corp.	Northern Natural Gas Co. (Gomez Field, Pecos County, Tex.).	Amend, agreement 8-10-73.	372 18
CI69-906 C 6-2-75	Continental Oil Co.	El Paso Natural Gas Co. (Blanco Field, San Juan County, N. Mex.).	Supplement agreement 4-24-75.	345 10
CI72-78 C 1-19-76	Cities Service Oil Co.	Transwestern Pipeline Co. (South Carlsbad Field, Eddy County, N. Mex.).	Letter agreement 11-20-75.	345 13
CI72-355 C 5-20-76	Diamond Shamrock Corp.	Arkansas Louisiana Gas Co. (Witcherville Field, Sebastian County, Ark.).	Amendment 12-18-75.	63 5

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Appendix C—Continued

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule		
			Description and date of document ¹	No.	Supp.
CI72-651..... C 4-19-76	Anadarko Production Co.	Panhandle Eastern Pipe Line Co. (Abraham Granite Wash Field, Hemphill County, Tex.).	Amendment 11-21-75.....	178	13
CI73-46..... C 3-18-76	Amoco Production Co.	El Paso Natural Gas Co., (Blanco Pictured Cliffs Field, San Juan County, N. Mex.).	Supplement Agreement ² 2-19-76.....	593	13
CI73-46..... C 3-18-76	do.....	El Paso Natural Gas Co. (Choza Mesa Field, Rio Arriba County, N. Mex.).	do ²	593	14
CI73-46..... C 3-18-76	do.....	El Paso Natural Gas Co. (Choza Mesa Field, Rio Arriba County, N. Mex.).	do ²	593	15
CI73-154..... A and C 8-30-72 4-30-73 5-0-74	Tenneco Oil Co.....	El Paso Natural Gas Co. (Gallegos Canyon Field and San Juan 28-7 unit, San Juan and Rio Arriba Counties, N. Mex.).	Contract 8-23-72..... Supplement Agreement 4-16-73.....	281 281	 1
CI73-166..... C 8-11-75	Skelly Oil Co.....	El Paso Natural Gas Co. (acreage in Rio Arriba County, N. Mex.).	Supplement Agreement 7-25-75.....	264	11
CI73-512..... A 1-29-73	Mobil Oil Corp.....	Columbia Gas Transmission Corp., (Valentine Field, LaFourche Parish, La.).	Contract 12-26-72.....	491	
CI73-687..... C 11-22-74	Sun Oil Co.....	El Paso Natural Gas Co. (Spraberry (Dean Formation) Field, Reagan County, Tex.).	Supplement Agreement 10-21-74.....	516	5
CI73-838..... C 3-23-73	Exchange Oil & Gas Corp. (operator), et al.	Texas Gas Transmission Corp. (Block 23 field, Ship Shoal area, Terrebonne Parish, La.).	Letter agreement 2-8-73.....	23	5
CI73-868..... A 6-8-73	Coastal States Gas Producing Co.	South Texas Natural Gas Gathering Co., Tijerina Cannals Field, Jim Wells County, Tex.).	Contract 2-1-73.....	90	
CI73-938..... C 8-11-75 10-14-75	Continental Oil Co.....	El Paso Natural Gas Co. (Blanco Field, San Juan County, N. Mex.).	Supplement Agreement ³ 7-21-75. ³ Supplement Agreement 9-24-75. ³	406 406	10 11
CI74-184..... C 4-30-76	Pan Eastern Explora- tion Co.	Panhandle Eastern Pipe Line Co. (Acreage in Hemphill County, Tex., and Roger Mills County, Okla.).	Agreement 3-3-76. ³	11	8
CI74-246..... E 7-15-74	Amoco Production Co.	South Texas Natural Gas Ga- thering Co. (Alta Mesa Field, Brooks County, Tex.).	Contract 2-1-73.....	679	
CI74-528..... C 9-8-75 9-25-75 9-29-75 10-16-75 10-20-75 11-28-75	Exxon Corp.....	El Paso Natural Gas Co. (Sand Hills Field, Crane County, Tex.).	Supplement 8-29-75..... Supplement 9-22-75. ³ Supplement 9-25-75. ³ Supplement 10-8-75..... Supplement 10-14-75..... Supplement 11-24-75.....	533 533 533 533 533 533	11 12 13 14 15 17
CI75-38..... C 2-13-76 5-3-76	Gulf Oil Corp.....	El Paso Natural Gas Co. (Eunice area, Lea County, N. Mex.).	Letter agreement 1-5-76..... Letter agreement 3-24-76.....	453 453	7 8
CI75-183..... C 3-22-76	CIG Exploration, Inc.	Colorado Interstate Gas Co. (Panhandle (Red Cave) Field, Potter County, Tex.).	Amendment 2-1-75.....	5	3
CI75-202..... C 3-8-76	Sun Oil Co.....	El Paso Natural Gas Co. (Sand Hills Field, Crane County, Tex.).	Supplemental agreement 2- 12-76.....	531	8
CI75-220..... A/C 10-11-74 11-4-75	Anadarko Production Co.	Panhandle Eastern Pipe Line Co. (Panama Council Grove Field, Stevens County, Kans.).	Contract 9-5-74..... Agreement 6-24-75.....	201 201	 2
CI75-294..... C 3-18-76	Exxon Corp.....	United Gas Pipe Line Co. (East McFaddin Field, Vic- toria County, Tex.).	Amendment 2-26-76. ³	543	5
CI75-346..... C 10-2-75 12-17-75	Continental Oil Co.....	Mountain Fuel Supply Co. (Spearhead area, Converse County, Wyo.).	Amendment agreement 1- 20-75..... Amendment agreement 7- 30-75..... Contract 9-26-75.....	416 416 416	3 4 5
CI75-367..... C 1-26-76	Pennzoli Co.....	El Paso Natural Gas Co. (Park- way West Field, Eddy Coun- ty, N. Mex.).	Letter agreement 12-2-75.....	43	3
CI75-517..... A 2-25-75	Texas Oil & Gas Corp.	Texas Eastern Transmission Corp. (Bonus Field, Wharton County, Tex.).	Contract 1-2-75.....	120	

RULES AND REGULATIONS

Appendix C—Continued

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule	
			Description and date of document ¹	No. Sup.p
CI75-556 C 4-6-76	Arkla Exploration Co. (operator), et al.	Arkansas Louisiana Gas Co. (acreage in Blaine County, Okla.).	Amendment 2-10-1976	45 2
CI75-605 C 6-19-75 8-20-75 9-23-75 1-16-76	Cities Service Oil Co.	El Paso Natural Gas Co. (acreage in Eddy County, N. Mex.).	Letter agreement 5-23-75 Letter agreement 7-2-75 Letter agreement 8-19-75 Letter agreement 11-10-75 ²	419 1 419 2 419 3 419 6
CI75-612 C 6-16-76	Chevron Oil Co., Western Division.	Mountain Fuel Supply Co. (Spearhead area, Converse County, Wyo.).	Amend agreement 3-19-76	48 3
CI75-655 F 12-30-74	Edwin L. Cox	Tennessee Gas Pipeline Co., (Clarenton Field, St. Mary Parish, La.).	Contract 3 4-1-55 ¹ Amendment 5-1-73 ² Assignment 2-18-74 ³ Amendment 10-28-74 ³ Letter agreement 3-20-75 ³ Louisiana Well Completion Report 11-8-73 ³ Louisiana Well Completion Report 6-18-75 ³	96 96 1 96 2 96 3 96 4 96 5 96 6
CI75-668 F 5-12-75	Amoco Production Co.	South Texas Natural Gas Gathering Co., (Cano Field, Hidalgo County, Tex.).	Contract 10-1-58 Letter agreement 3-21-75 Assignment 10-11-74 do Letter agreement 3-22-76	694 694 1 694 2 694 3 9 3
CI75-686 C 6-1-76	Transwestern Gas Supply Co.	Transwestern Pipeline Co. (Potash Field, Eddy County, N. Mex.).	Letter agreement 3-22-76	9 3
CI75-700 A 5-19-75	Mitchell Energy Corp. (operator), et al.	Natural Gas Pipeline Co. of America, (7 Oaks Field, Polk County, Tex.).	Contract 5-5-75	49
CI75-702 A 5-19-75	Amerada Hess Corp.	Northern Natural Gas Co. (Eunice and Monument Fields, Lea County, N. Mex.).	do Letter agreement 9-3-76	164 164 1
CI75-703 A 5-9-75	NAPECO, Inc.	Natural Gas Pipeline Co. of America, (7 Oaks Field, Polk County, Tex.).	Contract 4-16-75 Letter agreement 4-25-75	1 1 1
CI75-724 A 6-2-75	Exchange Oil & Gas Corp.	Texas Gas Transmission Corp. (Bayou Piquant Field, Terrebonne Parish, La.).	Contract 5-1-75	32
CI75-729 A 6-6-75	Union Texas Petroleum, a division of Allied Chemical Corp.	El Paso Natural Gas Co. (South Carlsbad and Russell Fields, Eddy County, N. Mex.).	Contract 5-22-75	131
CI76-13 C 9-12-75	Exxon Corp.	El Paso Natural Gas Co. (Fairview Mills Field, Lea County, N. Mex.).	Supplement 9-9-75 ²	552 1
CI76-17 A 7-14-75	Amoco Production Co.	Transwestern Pipeline Co. (South Empire Deep Field, Eddy County, N. Mex.).	Contract 6-16-75	705
CI76-42 C 5-4-76	Tenneco Oil Co.	El Paso Natural Gas Co. (undesignated Pictured Cliffs Field, San Juan County, N. Mex.).	Supplement agreement 3-11-76	311 2
CI76-46 A 7-23-75	Texaco Inc. (operator) et al.	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Sweet Bay Lake Field, Terrebonne Parish, La.).	Contract 6-24-75	520
CI76-52 A 7-28-75	Atlantic Richfield Co.	Transwestern Pipeline Co. (South Empire Deep Field, Eddy County, N. Mex.).	Contract 6-30-75	695
CI76-59 A 7-25-75	Union Texas Petroleum, a division of Allied Chemical Corp.	Transwestern Pipeline Co. (North Avalon Field, Eddy County, N. Mex.).	Contract 1-1-75	132
CI76-60 A 7-25-75	Texas Gas Exploration Corp.	Transcontinental Gas Pipe Line Corp. (Mula Pasture Field, McMullen County, Tex.).	Contract 7-8-75	40
CI76-73 A 8-4-75	Hondo Oil & Gas Co.	Transwestern Pipeline Co. (South Empire Deep Field, Eddy County, N. Mex.).	Contract 6-30-75	7
CI76-75 A 8-4-75	Felmont Oil Corp.	El Paso Natural Gas Co. (Dark Canyon area, Eddy County, N. Mex.).	Letter agreement 3-27-75	22
CI76-80 A 8-7-75	Amoco Production Co.	Northwest Pipeline Corp. (Wilson Ranch unit No. 2, Lincoln County, Wyo.).	Contract 6-24-75	703
CI76-81 A 8-7-75	do	Northwest Pipeline Corp. (Dry Muddy Creek unit No. 1 Lincoln County, Wyo.).	Contract 6-26-75	704
CI76-91 C 8-8-75	Franks Petroleum, Inc. (agent for Arkla Exploration Co.)	Tennessee Gas Pipeline Co. (South Crowley Field, Acadia Parish, La.).	Contract 5-7-76 ² Ratification 12-6-60 ² Assignment 5-1-75 ² Ratification agreement 5-6-75 ²	18 18 1 18 2 18 3
CI76-92 A 8-8-75	Union Oil Co. of California.	Trunkline Gas Co. (block 27 of block 14 field, Vermilion Parish, La.).	Contract	222
CI76-97 A 8-13-75	Clinton Oil Co.	Northern Natural Gas Co. (Spraberry Trend Field, Irion County, Tex.).	Contract 6-26-75	147
CI76-98 A 8-8-75	Continental Oil Co.	El Paso Natural Gas Co. (San Juan 28-7 Chacra unit, Rio Arriba County, N. Mex.).	Contract 7-17-75	422
CI76-100 A 8-13-75	Champlin Petroleum Co.	Colorado Interstate Gas Co. (Higgins unit area, Sweetwater County, Wyo.).	Contract 11-20-74	140

Footnotes at end of document.

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule	
			Description and date of document ¹	No. Supp.
CI76-103..... A 8-12-75	Tenneco Oil Co.....	El Paso Natural Gas Co. (San Juan 28-7 unit, Rio Arriba County, N. Mex.).	Contract 7-14-75.....	313
CI76-123..... A 8-27-75	Skelly Oil Co.....	Natural Gas Pipeline Co. of America (Sand Dunes West Field, Eddy County, N. Mex.).	Contract 5-28-75.....	270
CI76-124..... A 8-27-75	Texaco Inc.....	El Paso Natural Gas Co. (Basin Dakota Field, San Juan County, N. Mex.).	Contract 8-11-75.....	526
CI76-131..... A 9-2-75	Mesa Petroleum Co....	Panhandle Eastern Pipe Line Co. (Buffalo Wallow West Field, Hemphill County, Tex.).	Contract 8-14-75.....	74
CI76-140..... A 9-8-75	Anadarko Production Co.	do.....	Contract 7-11-75.....	217
CI76-150..... A 9-11-75	Gulf Oil Corp.....	El Paso Natural Gas Co. (Wilshire (Penn) Field, Upton County, Tex.).	Letter agreement 8-8-75.....	470
CI76-151..... A 9-12-75	Cities Service Oil Co..	Northern Natural Gas Co. (university lands, Andrews County, Tex.).	Contract 7-1-75.....	427
CI76-153..... A 9-15-76 10-14-75	Dorchester Exploration, Inc.	Natural Gas Pipeline Co. of America, (Square Lake Field, Eddy County, N. Mex.).	Contract 5-5-75..... Amend agreement 11-21-75..	6
CI76-165..... A 9-18-75	do.....	El Paso Natural Gas Co. (Wilson Penn Field, Lea County, N. Mex.).	Contract 7-25-75..... Amend agreement 11-18-75..	5
CI76-189..... A 9-19-75	Sun Oil Co.....	El Paso Natural Gas Co. (La Huerta and Golden Lane Fields, Eddy County, N. Mex.).	Contract 9-2-75. ²	544
CI76-221..... A 10-16-75	Texas Pacific Oil Co., Inc.	El Paso Natural Gas Co. (Phantom Draw Field, Eddy County, N. Mex.).	Contract 9-23-75. ²	115
CI76-224..... A 10-26-75	Gulf Oil Corp.....	Transwestern Pipeline Co. (various fields, Eddy County, N. Mex.).	Contract 9-3-75. ²	478
CI76-230..... A 10-20-75 2-5-76	Sun Oil Co.....	El Paso Natural Gas Co. (Parkway West Field, Eddy County, N. Mex.).	Contract 9-17-75. ² Amend agreement 1-13-76. ² ..	545
CI76-253..... F 10-31-75	CIG Exploration, Inc.	Colorado Interstate Gas Co. (Madden Deep Field, Fremont County, Wyo.).	Contract 7-13-73. ² Assignment 10-15-75. ²	13
CI76-275..... A 11-17-75	Chevron Oil Co., Western Division.	El Paso Natural Gas Co. (Penrose area, Lea County, N. Mex.).	Letter agreement 7-7-75. ²	50
CI76-276..... A 11-17-75	Petroleum, Inc.....	Northern Natural Gas Co. (Mullinville Field, Kiowa County, Tex.).	Contract 9-8-75.....	103
CI76-278..... A 2-3-76	Mitchell Energy Corp.	Natural Gas Pipeline Co. of America (northeast Provident City Field, Colorado and LaVaca Counties, Tex.).	Contract 10-22-75.....	51
CI76-282..... A 11-24-75	Northwest Exploration Co.	Northwest Pipeline Corp. (Red Gap prospect, Lincoln County, Wyo.).	Contract 10-24-75.....	2
CI76-284..... A 11-28-75	Petroleum, Inc.....	Kansas-Nebraska Natural Gas Co., Inc. (Fender B lease, Washington County, Colo.).	Contract 10-22-75.....	104
CI76-286..... A 11-28-75	Terra Resources, Inc..	Montana-Dakota Utilities Co. (Swanson Creek Field, Phillips County, Mont.).	Contract 11-5-75.....	41
CI76-287..... A 12-1-75	Texas Pacific Oil Co., Inc.	Transwestern Pipeline Co. (Kennedy Farms area, Eddy County, N. Mex.).	Contract 8-29-75. ²	116
CI76-293..... A 12-5-75	Perry R. Bass.....	El Paso Natural Gas Co. (Parkway West Field, Eddy County, N. Mex.).	Contract 11-7-75.....	41
CI76-294..... A 12-1-75	Sun Oil Co.....	Transwestern Pipeline Co. (Grayburg Jackson Field, Eddy County, N. Mex.).	Contract 10-15-75.....	546
CI76-321..... A 2-2-75	Mesa Petroleum Co....	Transwestern Pipeline Co. (North Burton Flats Field, Eddy County, N. Mex.).	Contract 12-19-75. ²	72
CI76-334..... A 1-12-76	Cities Service Oil Co..	Panhandle Eastern Pipe Line Co. (Thunder Creek Field, Campbell County, Wyo.).	Contract 1-5-76.....	432
CI76-335..... A 1-14-76	Atlantic Richfield Co.	El Paso Natural Gas Co. (Basin Dakota Field, San Juan County, N. Mex.).	Contract 11-24-75.....	699
CI76-341..... A 1-14-76	Ladd Petroleum Corp.	Northwest Pipeline Corp. (Blanco Field, San Juan County, N. Mex.).	Contract 1-13-75. ²	76
CI76-343..... A 1-16-76	Appalachian Exploration & Development, Inc.	Columbia Gas Transmission Corp. (Cabin Creek District, Kanawha County, W. Va.).	Contract 11-3-75.....	27
CI76-344..... A 1-19-76	Peanzoll Co.....	Columbia Gas Transmission Corp. (Duvall, Washington, and Jefferson Districts, Lincoln County, W. Va.).	Contract 12-2-75. ²	44
CI76-348..... A 1-21-76	Kerr-McGee Corp.....	Montana-Dakota Utilities Co. (Boxcar Buttes (Red River) Pool, McKenzie, N. Dak.).	Contract 1-5-76.....	136
CI76-351..... A 1-22-76	Amoco Production Co.	Natural Gas Pipeline Co. of America (Hondo B Federal No. 1 Field, Eddy County, N. Mex.).	Contract 4-22-75. ²	717
CI76-356..... A 1-26-76	Enserch Exploration Inc.	Natural Gas Pipeline Co. of America (South Warwink Field, Texas).	Contract 8-1-75. ² do. ² do. ² Contract 9-2-75. ²	4

Footnotes at end of document.

RULES AND REGULATIONS

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule	
			Description and date of document ¹	No. Supp.
CI76-361 A 1-23-76	Northwest Exploration Co. ⁴	Northwest Pipeline Corp. (Philadelphia Creek (undesignated field), Rio Blanco County, Colo.).	Contract 1-1-76. ³	3
CI76-363 A 1-27-76	Tenneco Oil Co.	Montana-Dakota Utilities Co. (Fairview Field, Richland County, Mont.).	Contract 12-19-75.	316
CI76-366 A 1-30-76	Exxon Corp.	Colorado Interstate Gas Co. (Bear Creek area, Converse County, Wyo.).	Contract 12-15-75. ³	561
CI76-386 A 2-19-76	Perry R. Bass, et al.	Natural Gas Pipeline Co. of America (Big Eddy No. 44 area, Eddy County, N. Mex.).	Contract 11-10-75.	43
CI76-387 A 2-20-76	Mesa Petroleum Co.	Transwestern Pipeline Co. (Red Hills Penn and Wolf Camp Fields, Lea County, N. Mex.).	Contract 2-3-76.	73
CI76-388 A 2-20-76	Exxon Corp.	Transwestern Pipeline Co. (Nash Field, Eddy County, N. Mex.).	Contract 2-3-76. ³	556
CI76-400 A 2-4-76	Transwestern Gas Supply Co.	Transwestern Pipeline Co. (Taurus Field, Ward County, Tex.).	Contract 1-12-76.	12
CI76-402 F 2-26-76 ³	Exxon Corp.	Consolidated Gas Supply Corp. (Belgrove Field, Jackson County, W. Va.).	Contract (No. 3796) 2-9-76. ³ Assignment 1-30-76. ³ (Supersedes in part Ashland Oil, Inc. FPC Gas Rate Schedule No. 88)	566 566 1
CI76-410 A 3-8-76	Murphy Oil Corp.	Mid-Louisiana Gas Co. (Buckhorn Field, Tensas Parish, La.).	Contract 2-1-76.	28
CI76-411 A 3-8-76	Mobil Oil Corp.	El Paso Natural Gas Co. (San Dunes (Morrow) Field, Eddy County, N. Mex.).	Contract 2-4-76. ³	515
CI76-418 A 3-15-76	Anadarko Production Co.	Panhandle Eastern Pipe Line Co. (Buffalo Wallow Field, Hemphill County, Tex.).	Contract 11-28-75.	218
CI76-420 A 3-19-76	McCulloch Oil Corp. of Texas.	Northern Natural Gas Co. (Mathers Ranch Field, Hemphill County, Tex.).	Contract 1-19-76.	13
CI76-430 AG 3-24-76	NAPECO, Inc.	Natural Gas Pipeline Co. America (Northeast Angleton Field, Brazoria County, Tex.).	Contract 2-3-76.	6
CI76-431 A 3-25-76	Aztec Oil & Gas Co.	Natural Gas Pipeline Co. of America (East Sawyer Field, Lea County, N. Mex.).	Contract 11-7-75.	41
CI76-441 A 3-29-76	Anadarko Production Co.	Panhandle Eastern Pipe Line (Gentzler Field, Stevens County, Kans.).	Contract 1-2-76. ³	219
CI76-444 A 4-1-76	Enserch Exploration, Inc.	Cities Service Gas Co. (Acresage in Woodward County, Okla.).	Contract 3-2-76.	123
CI76-445 A 4-14-76	Continental Oil Co.	United Gas Pipe Line Co. (Shongaloo Field, Webster Parish, La.).	Contract 3-15-76.	248
CI76-450 A 4-5-76	Gulf Oil Corp.	El Paso Natural Gas Co. (Eddy County, N. Mex.).	Contract 2-4-76.	483
CI76-452 AG 4-5-76	Odessa Natural Corp.	El Paso Natural Gas Co. (Chacon Dakota Pool, Rio Arriba and Sandoval Counties, N. Mex.).	Contract 3-23-76.	11
CI76-453 A 4-5-76	do.	Colorado Interstate Gas Company (Higgins Unit Area, Sweetwater County, Wyoming).	Contract 3-10-76. ³	12
CI76-454 F 4-6-76	Anadarko Production Co.	Panhandle Eastern Pipe Line Co. (Panoma Council Grove, Stevens County, Kans.).	Contract 9-1-60. Assignment 2-4-61. Amendment 11-21-75.	221 221 2
CI76-455 AG 4-6-76	Transwestern Gas Supply Co.	Transwestern Pipeline Co. (Red Hills Field, Lea County, N. Mex.).	Contract 1-12-76.	13
CI76-457 A 4-7-76	Kerr-McGee Corp.	Montana-Dakota Utilities Co. (Boxcar Buttes (Red River) Pool, McKenzie County, N. Dak.).	Contract 4-1-76.	138
CI76-458 A 4-7-76	do.	Montana-Dakota Utilities Co. (Boxcar Buttes (Red River) Pool, McKenzie County, N. Dak.).	do.	139
CI76-459 A 4-6-76	Phillips Petroleum Co.	Panhandle Eastern Pipe Line Co. (acresage in Major County, Okla.).	Contract 2-12-76.	589
CI76-481 A 4-15-76	Exxon Corp.	El Paso Natural Gas Co. (Wilshire Field, Upton County, Tex.).	Contract 1-30-76. ³	560
CI76-483 A 4-18-76	Helmarich & Payne, Inc.	Michigan Wisconsin Pipe Line Co. (Southeast Niles Field, Canadian County, Okla.).	Contract 4-5-76.	53
CI76-484 A 4-2-76	American Natural Gas Production Co.	do.	Contract 1-26-76.	18
CI76-485 A 4-14-76	Union Texas Petroleum, a division of Allied Chemical Corp.	El Paso Natural Gas Co. (Robinia Draw Unit No. 1, Eddy County, N. Mex.).	Contract 3-1-76. ³	135
CI76-486 A 4-16-76	Petroleum, Inc.	Northern Natural Gas Co. (Mocane-Laverne Field, Harper County, Okla.).	Contract 3-10-76.	105
CI76-488 A 4-19-76	Anadarko Production Co.	Mountain Fuel Supply Co. (Spearhead area, Converse County, Wyo.).	Contract 11-11-75.	223
CI76-489 A 4-19-76	Edwin L. Cox	Texas Eastern Transmission Corporation (North Riverside Field, San Patricio County, Texas).	Contract 3-3-76. ³	97

Footnotes at end of document.

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule	
			Description and date of document ¹	No. Supp.
CI76-492 A 4-19-76	Wewoka Exploration Co.	United Gas Pipe Line Co. (West Fields Field, Beauregard Parish, La.).	Contract 4-6-76	1
CI76-493 A 4-23-76	Ladd Petroleum Corp.	El Paso Natural Gas Co. (Buffalo Wallow Field, Hemphill County, Tex.).	Agreement 12-26-74 ²	77
CI76-497 A 4-26-76	NAPECO, Inc.	Natural Gas Pipeline Co. of America (Red Tank area, Lea County, N. Mex.).	Contract 2-1-76	7
CI76-498 A 4-28-76	Gulf Oil Corp.	Colorado Interstate Gas Co. (Southwest Table-Rock Field, Sweetwater County, Wyo.).	Contract 12-1-75	485
CI76-511 A 5-5-76	Northern Michigan Exploration Co.	United Gas Pipe Line Co. (West Deer Island, Terrebonne Parish, La.).	Contract 12-31-75	2
CI76-523 A5-10-76	Arkla Exploration Co.	Arkansas Louisiana Gas Co. (Northeast Carlton Field, Blaine County, Okla.).	Contract 1-2-76 ³	57
CI76-529 A 5-13-76	Terra Resources, Inc.	Transcontinental Gas Pipe Line Corp. (Palmetto Field, St. Landry Parish, La.).	Contract 3-4-76	48
CI76-530 A 5-13-76	Diamond Shamrock Corp.	El Paso Natural Gas Co. (acreage in Hemphill County, Tex.).	Agreement 3-18-76 ³	75
CI76-554 A 5-20-76	Arkla Exploration Co.	Arkansas Louisiana Gas Co. (Caspiana and Elm Grove Fields, Caddo Parish, La.).	Contract 4-1-76	58
CI76-554 A 5-24-76	do.	Arkansas Louisiana Gas Co. (West Wilburton Field, Pittsburg County, Okla.).	Agreement 5-18-76	58 1
CI76-580 A 6-4-76	Monsanto Co.	Transwestern Pipeline Co. (Potash Field, Eddy County, N. Mex.).	Contract 5-28-76	59
CI76-588 F 6-4-76	Anadarko Production Co.	Panhandle Eastern Pipe Line Co. (Panoma Council Grove Field, Morton County, Kans.).	Contract 9-20-60	124
CI76-589 F 6-7-76	do.	Panhandle Eastern Pipe Line Co. (Panoma Council Grove Field, Stevens County, Kans.).	Agreement 8-15-60	224
CI76-600 A 6-9-76	Cities Service Oil Co.	Colorado Interstate Gas Co. (acreage in Seward County, Kans.).	Assignment 12-27-60	224 1
CI76-603 A 6-14-76	Pioneer Production Corp.	United Gas Pipe Line Co. (South Jennings Field, Jefferson Davis Parish, La.).	Assignment 11-7-75	224 2
			Assignment 5-23-61	225 1
			Agreement 11-7-75	225 2
			Contract 4-30-76	435
			Contract 4-28-76	51
			Ratification 4-28-76	51 1

¹⁷ See, Opinion No. 770, p. 1.
¹⁸ *Id.*, p. 5.
¹⁹ *Id.*, p. 79.
²⁰ This case was subsequently reversed on other grounds, 415 U.S. 336 (1974).
²¹ See, Opinion No. 770, ----- FPC -----, mimeo p. 15.
²² *Shell Oil Co. v FPC*, supra.
²³ 52 FPC 1604, 1638 (1974).
²⁴ See, Exhibit 1, infra.
²⁵ Order No. 543, Docket No. RM75-24, 54 FPC ----- (1976), appeal pending, *Superior Oil Co. v FPC*, No. 76-2113 (5th Cir. 1976).
²⁶ Aztec and Austral recognize that the contract would have to permit such increase for it to be effective. *United Gas Pipeline Co. v Mobile Gas Service Corp.*, 350 U.S. 332 (1956).
²⁷ Order Clarifying Prior Order And Amending Section 157 Of The Commission's Regulations Under The Natural Gas Act, issued July 30, 1976, appeal pending, *Shell Oil Co., et al. v FPC*, No. 76-3066, et al. (5th Cir.).
²⁸ See, Order No. 539-B, supra.
²⁹ Opinion No. 749, et seq., appeal pending, *Tenneco Oil Co., et al. v FPC*, No. 76-2960, et al. (5th Cir.).
³⁰ Area Rate Proceeding (Permian Basin Area), 34 FPC 159 (1965).
³¹ See, Opinion No. 770, ----- FPC -----, mimeo p. 17.
³² See, Opinion No. 699-H, ----- FPC -----, mimeo p. 14.
³³ See, Opinion No. 770, ----- FPC -----, Exhibits 15 and 17, mimeo pp. 90 and 93.
³⁴ *Ibid.*
³⁵ Just as the inflow present value factor would be adjusted for a one-half year lag at the 14.16% annual rate,

$$6.9562 \times (1.1416)^{-.5} = 6.5105,$$

so would the present value of the outflows:

$$34.23 \times (1.1416)^{-.5} = 32.04$$

and the original price calculus under the 699-H model holds. That is, the adjustment would multiply both sides of the price determination equation by the same factor, $(1.1416)^{-.5}$:

$$\frac{1}{2} \times 6.9562 \times (1.1416)^{-.5} \times (.4368P + 3.42) = 34.23 \times (1.1416)^{-.5}$$

or

$$\frac{1}{2} \times 6.9562 \times (.4368P + 3.42) 34.23$$

or

$$P = 161\frac{1}{2}$$

which is that price originally determined excluding the escalation effect. The same logic applies to the 1973-1974 vintage gas.

³⁶ See, Opinion No. 770, ----- FPC -----, mimeo pp. 58-59.

³⁷ *Id.* at 27.

³⁸ *Id.* at 59.

³⁹ See, Opinion No. 770, ----- FPC -----, mimeo p. 28, Exhibit 1.

⁴⁰ Senators John Durkin and William Proxmire, and Congressmen Berkley Bedell, William Brodhead, Michael Harrington, Herbert Harris, William Hughes, Andrew Maguire, Toby Moffett, John Moss, James Oberstar, Richard Ottinger, John Seiberling and Gerry Studds.

⁴¹ 93rd Cong., 1st Sess., Part 1 (June 26, 1973) at 223.

⁴² 94th Cong., 1st Sess., Part 2 (June 9, 13, 26, 27 and July 14, 21, 1975), p. 1.

⁴³ American Gas Association, et al., FTC File No. 711-0042.

⁴⁴ Congressmen only made passing reference that BOC's work "has been the subject of a critique" by BOE.

⁴⁵ See, n. 42, supra, at 606.

⁴⁶ Bureau of Natural Gas Analysis of the Federal Trade Commission's Bureau of Competition Allegations Concerning the AGA Reserve Reporting System, July 10, 1975.

⁴⁷ National Gas Reserve Study, A Staff Report, prepared by the Federal Power Commission Staff for the National Gas Survey, revised September 1973.

¹ Where no effective date is shown, the rate schedule filing has heretofore been accepted.

² Effective Date: Date of initial delivery.

³ Supra.

⁴ Applicant shall file a revised billing statement reflecting among other components, tax reimbursement not to exceed 5.3741 pct.

⁵ Effective date: May 15, 1976 (expiration date of 60-d emergency sale).

[FR Doc. 76-33221 Filed 11-12-76; 8:45 am]

FOOTNOTES

¹ Opinion and Order Prescribing Uniform National Rates for Sales of Natural Gas Dedicated to Interstate Commerce on or After January 1, 1973, for the Period January 1, 1975 to December 31, 1976, FPC (July 27, 1976).

² A list of those persons filing petitions to intervene and applications for rehearing is attached hereto as Appendix A.

³ A list of those persons participating in the oral argument is attached hereto as Appendix B.

⁴ American Public Gas Association, Consumer Federation of America, New Jersey Board of Public Utility Commissioners, State of Minnesota, Minnesota Public Service Commission, Senator Hubert H. Humphrey, Public Service Commission of Wisconsin, United Steel Workers of America, United Automobile Aerospace and Agricultural Implement Workers of America (UAW), International Association of Machinists & Aerospace Workers, National Rural Electric Cooperative Association (NRECA), American Public Power Association, United States Conference of Mayors, National Farmers Union, National Farmers Organization, Energy Action Committee, Toward Utility Rate Normalization (TURN), and Industrial Union Department, AFL-CIO.

⁵ Just and Reasonable National Rates for Sales of Natural Gas from Wells Commenced on or After January 1, 1973, And New Deductions of Natural Gas To Interstate Com-

merce on or After January 1, 1973, Opinion No. 699, et seq.

⁶ See, Order Granting Petitions For Rehearing For Purposes Of Further Consideration, Granting Interventions And Providing For Oral Argument, Issued August 31, 1976. 41 FR 38765 (September 13, 1976).

⁷ 39 FR 43093, December 10, 1974.

⁸ 60 Stat. 237, 918, 993 (1946); 61 Stat. 37, 201 (1947); 62 Stat. 99 (1948); 80 Stat. 250 (1966); 5 U.S.C. § 551, et seq. (1970).

⁹ 52 Stat. 822, 823, 824, 825, 829, 830 (1938); 56 Stat. 83, 84 (1948); 61 Stat. 459 (1947); 76 Stat. 72 (1962); 15 U.S.C. 717c, 717d, 717f, 717g, 717i, 717m, 717n, 717o (1970).

¹⁰ The OEC recommendations were clarified on October 3, 1975.

¹¹ See, n. 6, supra.

¹² *United States v. Florida East Coast Ry., et al.*, 410 U.S. 224 (1973); *United States v. Allegheny-Ludlum Steel Corp.*, 406 U.S. 742 (1972); *American Public Gas Association, et al. v. FPC*, 498 F. 2d 718 (D.C. Cir. May 23, 1974); *Mobil Oil Corp. v. FPC*, 483 F. 2d 1238 (D.C. Cir. 1973); *Phillips Petroleum Co. v. FPC*, 475 F. 2d 842 (10th Cir. 1973), cert. denied, 414 U.S. 1146 (January 14, 1974).

¹³ 18 CFR 2.56a(a) (1) (i) and (ii).

¹⁴ 18 CFR 2.56a(a) (3) (i) and (ii).

¹⁵ Georgia Public Service Commission also seems to request this category of gas not be eligible for the new gas rate, although their rehearing application is somewhat confusing.

¹⁶ See, Opinion No. 770, ----- FPC -----, mimeo pp. 146-148, Ordering Paragraph (A), § 2.56a(a) (1) (ii) and (3) (ii).

⁴⁸ 94th Cong., 2nd Sess., January 21, 1976, at 11.

⁴⁹ The Congressmen had not sought to become parties to this proceeding prior to the issuance of Opinion No. 770 but were permitted to intervene by order of the Commission on September 2, 1976.

⁵⁰ UDC Comments, July 24, 1975.

⁵¹ Application of UDC for Rehearing of Opinion No. 770, August 26, 1976, p. 8.

⁵² FPC (December 10, 1975);

FPC (April 19, 1976).

⁵³ *Superior Oil Co. v FPC*, No. 76-2113; *Mitchell Energy Corporation v FPC* No. 76-2246.

⁵⁴ An examination of the Form 64 data revealed that the drilling footage reported for the 115 companies consistently corresponds to approximately $\frac{1}{2}$ to $\frac{1}{4}$ of the total industry drilling footage reported by the API. Similarly, the Form 40 data totals to only $\frac{1}{2}$ of the API drilling footage. Such data did not include many of the largest producers who either did not file all of the appropriate schedules, or filed only for their offshore facilities, and thus, were not included in the computer-stored data.

If the data from these limited filings were used, the following indications would emerge. Using Form 64 data for the period 1967 through 1973, and Form 40 data for 1974 and 1975 (with the 1975 data given a weight of 3 to compensate for the smaller number of filings that year), it appears that where Opinion No. 770 used 323 Mcf per foot as the productivity from a nine-year series (1967-1975) and 279 Mcf per foot as the productivity from an eight-year series (1968-1975), the comparable figures from Forms 40 and 64 data would be 305 and 255 Mcf per foot, respectively.

⁵⁵ Appendix B-1 in Notice of Issuance of Revised Staff Nationwide Cost Study and Staff Study of American Gas Association Reserve Additions, Docket No. R-389-B, issued March 21, 1974.

⁵⁶ Staff Report On The Updated 31-Lease Investigation, 41 FR 26583, June 21, 1976.

⁵⁷ We also note that the Federal Energy Administration (FEA) submitted inquiries to natural gas companies seeking information regarding production and proved reserves. The resulting FEA report, Final Report on Oil and Gas Resources, Reserves and Productive Capacities, issued October, 1975, contained reserve figures within a few percent of the estimates published by the AGA for the same year. Although we do not necessarily ratify the finding of the FEA, we note that it completely contradicts those studies cited by AFPA and Congressmen.

⁵⁸ *Shell Oil Co. v FPC*, 520 F.2d 1061 (5th Cir. 1975), cert. denied sub nom., *California Co., et al. v FPC*, 44 U.S.L.W. 3716 (June 14, 1976).

⁵⁹ In Opinion No. 699, the Commission relied upon reserve additions for a ten-year period (1963-1972) to compute the high end of the productivity range (552 Mcf/ft.) and a seven-year period (1966-1972) to compute the low end of this range (485 Mcf/ft.). The Commission ultimately employed the lower seven-year average in Opinion No. 699-H which was later upheld on review in *Shell Oil Co. v FPC*, supra.

⁶⁰ See, Opinion No. 770, ---- FPC ----, dissenting opinion, p. 7, and the dissenting opinion hereto.

⁶¹ *Ibid.*

⁶² See, Staff Report On The Updated 31-Lease Investigation, issued June 21, 1976, p. 12.

⁶³ *Ibid.*

⁶⁴ *Id.*, at p. 13.

⁶⁵ For the nine-year period, 1967-1975, negative revisions of prior-year reserve additions have exceeded positive revisions by 3,789 Bcf. For the eight-year period, 1968-1975, negative revisions have exceeded positive revisions by 7,502 Bcf.

⁶⁶ See, Opinion No. 770, -- FPC --, mimeo p. 40, Exhibit 4.

⁶⁷ See, Oral Argument, Docket No. RM75-14, September 16, 1976, p. 80.

⁶⁸ Excluding revisions reduces the offshore reserve additions for the 1973-1975 period by 3.3 Tcf, to less than 7 Tcf. This further reduces the already nominal effect of this correction.

⁶⁹ OEC's recommendations, as clarified in the October 3, 1975, order of the Commission, utilized an exploratory productivity factor of 801.7 Mcf per foot and a developmental productivity factor of 295.5 Mcf per foot. These correspond to a productivity of 333 Mcf per foot if calculated in the traditional fashion that does not distinguish between the two types of activity.

⁷⁰ See, Opinion No. 770, -- FPC --, mimeo p. 43.

⁷¹ Census of Mineral Industries—SIC Industry Group 131, Bureau of the Census, Department of Commerce, Tables 6B and 6D.

⁷² See, Opinion No. 770, -- FPC --, mimeo p. 47.

⁷³ See, n. 55, supra.

⁷⁴ See, Opinion No. 770, -- FPC --, mimeo p. 50; OEC Recommendations, August 4, 1975, Table 5.

⁷⁵ See, Opinion No. 770, -- FPC --, mimeo pp. 58-59.

⁷⁶ See Staff Recommendations, August 4, 1975.

⁷⁷ See, Opinion No. 770, -- FPS --, mimeo pp. 64-67.

⁷⁸ Table 4 of the UDC submittal at the oral argument is essentially in agreement with the analysis.

⁷⁹ See, Opinion No. 770, ---- FPC ----, mimeo pp. 70 and 75.

⁸⁰ *Id.*, p. 97.

⁸¹ *Id.*, pp. 97 and 75.

⁸² *Id.*, pp. 89 and 95-103.

⁸³ *Id.*, Appendix C.

⁸⁴ Area Rate Proceeding, et al. (Other Southwest Area), 46 F.P.C. 900 (1971). The rates approved for the Other Southwest Area track the rates approved in Southern Louisiana II and Texas Gulf Coast, which were based upon a 15% rate of return.

⁸⁵ Tax Reduction Act of 1975, 89 Stat. 26, P.L. 94-12, § 401 adding § 613A to the Int. Rev. Code of 1954.

⁸⁶ *FPC v. United Gas Pipe Line Co.*, 393 U.S. 71 (1968), Florida Gas Transmission Co., 47 FPC 341 (1972), reh. denied, 49 FPC 261 (1973), and Natural Gas Pipeline Co., 50 FPC 789 (1973).

⁸⁷ See, Opinion No. 770, ---- FPC ----, Appendix D, p. D-10.

⁸⁸ The 52 cent rate established in Opinion No. 699-H was based upon projected costs and productivity for 1973 and 1974. Actual data for those years revealed dramatic increases in costs between 1973 and 1974, and continued declines in average productivity.

⁸⁹ See, Opinion No. 770, ---- FPC ----, mimeo p. 85.

⁹⁰ Using a 15% discount rate (ignoring the tax-deductibility of interest), the present value of the gross outlays from Exhibit 4, infra, allocated to natural gas production are $58.95 \times 91 = 53.65\%$, the annual cash flow from Exhibit 5 without taxes is $(.84P - 2.91)$, and the present value factor is 6.7245. The price determination equation is

$$\frac{1}{15} \times 6.7245 \times (.84P - 2.91) = 53.65$$

or $p = 146\%$ per Mcf (without escalator). See, UDC Oral Argument, Table 1, for comparable results.

⁹¹ Tax Reduction Act of 1975, 89 Stat. 26, Pub. L. 94-12, § 401 adding § 613A to the Int. Rev. Code of 1954.

⁹² See, Opinion No. 770, ---- FPC ----, p. 83, n. 185.

⁹³ The present value at 14.16% of the gross value outlays from Column 2 of Exhibit 4, infra, is 58.19¢ per Mcf and the price-determining equation with a 4¢ escalator is:

$$1/15 \times 6.9562 \times (.4368P + 3.42) + 4(.948) = 58.19 \times .91 \text{ or } P = 235\text{¢ per Mcf.}$$

⁹⁴ Int. Rev. Code of 1954, § 11.

⁹⁵ The corporate tax rate is 48% on income above \$50,000.

⁹⁶ Just And Reasonable National Rates For Sales of Natural Gas From Wells Commenced Prior To January 1, 1973, Opinion No. 749, et al.

⁹⁷ Permian Basin Area Rate Proceeding, 34 FPC 159, 206-207 (1965).

⁹⁸ Southern Louisiana Area Rate Proceeding, 50 FPC 530, 585-586 (1968).

⁹⁹ See, Opinion No. 699, mimeo p. 75.

¹⁰⁰ This negative tax treatment was recognized in many of the applications for rehearing including Congressmen, SDPUC and IPR.

¹⁰¹ See, Opinion No. 699-H, Appendix C. Sheets 6-7.

¹⁰² See, e.g., 121 Cong. Rec. H1151-H1161, H1162, H1163-H1166, H1168-H1170, H1171-H1172, H1191 (February 27, 1975, daily ed.).

¹⁰³ Brief Summary of H.R. 2166, Tax Reduction Act of 1975, Committee on Ways and Means, U.S. House of Representatives, 1975, and Summary of the Major Provisions of Public Law 94-12, Tax Reduction Act of 1975, Committee on Ways and Means, U.S. House of Representatives, April 1, 1975.

¹⁰⁴ See, Opinion No. 770, p. 82, note 179.

¹⁰⁵ Under § 613A(c) and (d) of the Code, percentage depletion will be continued for independent producers and royalty owners but only to the extent that their average daily production of gas is within the limits prescribed in the following table:

Year	Average daily production of gas (thousand cubic feet)	Applicable percentage depletion rate (percent)
1975.....	12,000	22
1976.....	10,800	22
1977.....	9,600	22
1978.....	8,400	22
1979.....	7,200	22
1980.....	6,000	22
1981.....	6,000	20
1982.....	6,000	18
1983.....	6,000	16
1984 and thereafter...	6,000	15

This exemption is not available to a transferee of any interest in a proven gas property after 12-31-74, nor does the exemption apply to a producer who directly or through a related person sells gas through a retail outlet.

¹⁰⁶ Without escalation the Opinion No. 770 price is 161.15¢ per Mcf:

$$\frac{1}{15} \times 6.9562 \times [.4368P + 3.42] = 34.23 \text{ or } P = 161.15.$$

With the addition of a term to reflect the tax savings from depletion allowance at 22%, the price is 133.95¢ per Mcf:

$$\frac{1}{15} \times 6.9562 \times [.4368P + .22(3.42 + .84P).48] = 34.23 \text{ or } P = 133.95.$$

By our calculations, the depletion allowance effect is approximately 27¢ per Mcf.

¹⁰⁷ See, Opinion No. 770, ---- FPC ----, mimeo p. 90.

¹⁰⁸ See, Opinion No. 770, ---- FPC ----, mimeo pp. 84-85.

¹⁰⁹ 359 F.2d 318 (5th Cir. 1966).

¹¹⁰ The present value at 14.16% of the gross value outlays in Column 2 of Exhibit 4, infra, is 58.19¢. Allowing 45.47 to be depreciated or cost-depleted would lead to the following cost-based price determination:

$$1/15 \times 6.9562 \times (.4368P + 18.35) = 58.19 \times .91 \text{ or } P = 219\text{¢ per Mcf.}$$

¹¹¹ See, supra, n. 93.

¹¹² 40 FPC 530.

¹¹³ I.R.C. § 904.

¹¹⁴ Report of Committee on Ways and Means on H.R. 10612, Tax Reform Act of 1975, Nov. 12, 1975, p. 225.

¹¹⁵ I.R.C. § 907(b).
¹¹⁶ Conference Report on H.R. 2166, Tax Reduction Act of 1975.
¹¹⁷ Appeal pending, *Pennzoil Producing Co., et al. v. F.P.C.*, No. 76-1626, et al. (5th Cir.).
¹¹⁸ Escalation of 4 cents per annum on the initial \$1.42 rate would track an approximate 3 percent annual rate of inflation in future exploration and development costs.
¹¹⁹ *Area Rates For The Appalachian And Illinois Basin Areas*, 48 F.P.C. 1299 at 1309-1310 (1972), affirmed sub nom. *Shell Oil Co., et al. v. F.P.C.*, 491 F.2d 82 (5th Cir. 1974).
¹²⁰ See, Opinion No. 770, -- FPC --, mimeo pp. 104-108.
¹²¹ See, Opinion No. 699-H, -- FPC --, Appendix C.
¹²² See, Opinion No. 770, -- FPC --, mimeo p. 35, Exhibit 2.
¹²³ See, Opinion No. 699, -- FPC --, mimeo pp. 50-51.
¹²⁴ See, Opinion No. 770, -- FPC --, mimeo p. 50. Opinion No. 699-H employed a dry hole to successful well footage factor of 1.00 in pricing the 1973-74 vintage gas. Opinion No. 770, however, employed a factor of .80 in pricing the 1975-76 vintage gas. This is consistent with the observed trend in the dry hole factor.
¹²⁵ See, Opinion No. 770, ----- FPC -----, mimeo p. 54.
¹²⁶ See, Opinion No. 770, ----- FPC -----, mimeo p. 57.
¹²⁷ This is consistent with the treatment of lease acquisition costs in deriving the \$1.42 rate for 1975-1976 biennium gas where 1973-1974 costs were used in the averaging technique, but 1975-1976 lease acquisition costs were not utilized.
¹²⁸ See, Opinion No. 770, -- FPC --, mimeo p. 59.
¹²⁹ Opinion No. 749, supra.
¹³⁰ *Area Rate Proceeding, et al. (Permian Basin)*, 34 FPC 159, 204 (1965).
¹³¹ Opinion No. 598, 46 FPC 86 (1971).
¹³² This figure includes the cost components for dry holes, other exploration and exploration overhead.
¹³³ This factor expresses the relationship between 1/3 of the exploration and development operating expenses, material and supplies, and prepayments derived from the data in Docket No. AR69-1.
¹³⁴ This is the operating expense cost component.
¹³⁵ This factor expresses the relationship between 1/3 of the producing operating expenses, material and supplies, and prepayments, derived from data in Docket No. AR69-1.
¹³⁶ This is the lease acquisition cost component.
¹³⁷ See, Opinion No. 699, -- FPC --, mimeo p. 72.
¹³⁸ See Opinion No. 770, -- FPC --, mimeo pp. 68-75.
¹³⁹ Id., mimeo p. 104.
¹⁴⁰ See, Opinion No. 699, -- FPC --, mimeo, p. 61.
¹⁴¹ Id., mimeo p. 93.
¹⁴² See, Opinion No. 770, -- FPC --, mimeo pp. 79-80.
¹⁴³ See, BNG Recommendations, August 4, 1975, p. 13.
¹⁴⁴ See, Opinion No. 770, -- FPC --, mimeo p. 104.
¹⁴⁵ See, Opinion No. 699-H, -- FPC --, mimeo Appendix C, sheets 5 and 7, Opinion No. 770, -- FPC --, mimeo p. 92, and 106.
¹⁴⁶ Supra, pp. 72-73.
¹⁴⁷ Order Imposing Refund Obligation Pursuant to Order of the Court, Docket No. RM75-14, issued August 13, 1976.
¹⁴⁸ 417 U.S. at 316.
¹⁴⁹ See, Opinion No. 770, ----- FPC -----, mimeo pp. 109-125 and Appendix D, thereto.
¹⁵⁰ See, Opinion No. 770, ----- FPC -----, mimeo p. 114, Exhibit 27.
¹⁵¹ See, Opinion No. 770, ----- FPC -----, mimeo p. 118.

¹⁵² See, Opinion No. 770, ----- FPC -----, mimeo p. 116.
¹⁵³ Ibid.
¹⁵⁴ This estimation takes into account the historic energy relationship of gas selling at about 85% of the Btu-equivalent price of oil.
¹⁵⁵ Statement of the Honorable Alastair Gillespie, Minister of Energy, Mines and Resources On Export Gas Pricing, June 10, 1976 and Great Lakes Transmission Company et al., Docket No. CP66-110 et al., issued, September 9, 1976.
¹⁵⁶ See, Recompilations, infra, Section VII-H.
¹⁵⁷ See, p. 14, supra.
¹⁵⁸ See, pp. 94-110, supra.
¹⁵⁹ The average residential rate in 1975 was \$1.69 per Mcf (Gas Facts). Allowing for the 19.3% gas price increase from July 1975 to July 1976 (BLS) results in an average rate of \$2.01 per Mcf.
¹⁶⁰ The average residential consumption in 1975 was 120 Mcf. Allowing for the effects of the \$2.01 rate, with consumption at 120 Mcf/year results in an average 1976 bill of \$241 per year.
¹⁶¹ 5.62 MMBtu's per barrel less 40¢ Mcf transmission charges (1,300 miles at 3¢ per 100 miles).
¹⁶² 3,412 Btu's per Kwh, allowing 90¢ per Mcf for transmission and distribution charges.
¹⁶³ FEA "Fact Sheet", July 1976, p. 2.
¹⁶⁴ See, Opinion No. 770, ----- FPC -----, Appendix D, p. D-20.
¹⁶⁵ GHK Comments, May 30, 1975, p. 31.
¹⁶⁶ Id., p. 29.
¹⁶⁷ Id., p. 30.
¹⁶⁸ Id., p. 9.
¹⁶⁹ See, Opinion No. 770, ----- FPC -----, mimeo pp. 131 and 156-157.
¹⁷⁰ 18 CFR 154.102(c).
¹⁷¹ See order issued August 2, 1976, in Docket No. AR64-2, et al., mimeo p. 5, and Opinion No. 749, ----- FPC -----, mimeo p. 32.
¹⁷² See, Opinion No. 770, ----- FPC -----, mimeo pp. 151-153.
¹⁷³ See, FPC Continental United States Cost and Operational Data Questionnaire, August 17, 1973, Schedules 1 and 2, n. 3.
¹⁷⁴ See, Opinion No. 770, ----- FPC -----, mimeo p. 12.
¹⁷⁵ *Area Rates For The Appalachian and Illinois Basin Areas*, Docket No. R-371, 48 FPC 1299 (1972).
¹⁷⁶ See, Opinion No. 770, pp. 76-80.
¹⁷⁷ Id, p. 107.
¹⁷⁸ 18 C.F.R. § 2.56(a) (5).
¹⁷⁹ Opinion No. 749, ----- FPC -----, slip opinion at p. 21, n. 51.
¹⁸⁰ *Area Rates For The Appalachian and Illinois Basin Areas*, 48 F.P.C. 1299 at 1309-1310 (1972), affirmed sub nom. *Shell Oil Co., et al. v. F.P.C.*, 491 F.2d 2 (5th Cir. 1974).
¹⁸¹ See, Opinion No. 770, ----- FPC -----, mimeo p. 75, Exhibit 13.
¹⁸² A 15-year rate-of-take was assumed in Opinion No. 770.
¹⁸³ See, Opinion No. 568, 42 FPC 738 (1969).
¹⁸⁴ See, Opinion No. 699-H, ----- FPC -----, mimeo pp. 47-50.
¹⁸⁵ See, Opinion No. 770, ----- FPC -----, mimeo p. 136.
¹⁸⁶ 18 CFR § 2.56(a).
¹⁸⁷ See, Opinion No. 770, ----- FPC -----, mimeo p. 88.
¹⁸⁸ *F.P.C. v. Hope Natural Gas Company* 320 U.S. 591 at 605 (1944). See also, *Bluefield Water Works and Improvement Company v. P.S.C. of West Virginia* 262 U.S. 679 (1923).
¹⁸⁹ See, Orders issued December 31, 1975, -- FPC --, and February 27, 1976, -- FPC --, in Docket Nos. R-411 and RM74-4.
¹⁹⁰ Ibid.
¹⁹¹ See Order issued December 31, 1975, in Docket Nos. R-411 and RM74-4, mimeo, pp. 18019, -- FPC --.
¹⁹² This is the cost of producing 1 Mcf of gas excluding the return on investment beyond

the preproduction period and any tax on that return. It is the producer's "out of pocket" cost for the gas.
¹⁹³ Order Requiring New Producer Filings, Docket No. RM75-14, Issued October 21, 1976.
¹⁹⁴ Just and Reasonable National Rates for Sales of Natural Gas From Wells Commenced Prior to January 1, 1973, Opinion No. 749, et al., appeal pending, *Tenneco Oil Co. v. F.P.C.*, 5th Cir. No. 76-2960.
¹⁹⁵ See, Order on Clarification, Docket R-389-B, Issued March 31, 1975.
¹⁹⁶ "Behind the Pipe" reserves were estimated at 8.87 Tcf at the end of 1973 by pipelines. Non-Producing Gas Reserves in the Gulf of Mexico (February 1975) and Non-Producing Gas Reserves Onshore United States and in the Gulf of Mexico Offshore State Area (September 1976), both FPC.
¹⁹⁷ Utmeb v. SHRDLU
¹⁹⁸ See, Opinion No. 770, ----- FPC -----, mimeo, p. 61.
¹⁹⁹ This policy of permitting sales from recompletions performed after January 1, 1973 in wells drilled prior to that date to receive the \$.62 rate rather than a lower rate was upheld by the Court in *Shell Oil Co. v. F.P.C.*, supra.
²⁰⁰ See, Opinion No. 770, ----- FPC -----, Ordering Paragraph A, 2.56a(k), pp. 157-158.
²⁰¹ Deeper drilling is defined as drilling after the first completion and production in a well bore has been performed.
²⁰² Order Imposing Refund Obligation Pursuant to Order of the Court, Docket No. RM75-14, issued August 13, 1976.
²⁰³ Order Imposing Refund Obligation Pursuant To Order of the Court, Docket No. RM75-14, Issued August 13, 1976.
²⁰⁴ Order Imposing Refund Obligation Pursuant to Order of the Court, Docket No. RM75-14, issued August 13, 1976.
²⁰⁵ See, Opinion No. 770, ----- FPC -----, mimeo pp. 146-47, Ordering Paragraph (A), 2.56a(a) (1) (i).
²⁰⁶ 18 CFR § 2.56a(a) (1) (i), infra.
²⁰⁷ See, Opinion No. 770, ----- FPC -----, mimeo p. 148, Ordering Paragraph (A), 2.56a(a) (5) (ii).
²⁰⁸ 18 CFR 2.56a(a) (3) (i), infra.
²⁰⁹ Optional Procedure For Certifying New Producer Sales Of Natural Gas, 48 FPC 218, amended and reh. denied, 48 FPC 477, reh. denied, 48 FPC 1002 (1972), affirmed, *John E. Moss, et al. v. F.P.C.*, Nos. 72-1837, D.C. Cir., August 15, 1974 (Reversed as to pregranted abandonment, Section 2.75e).
²¹⁰ Opinion and Order Modifying In Part Opinion No. 699-H, ----- FPC -----, January 7, 1975.
²¹¹ See, Oral Argument in Docket No. RM75-14, September 17, 1976, p. 220.
²¹² Supra, pp. 16-17.
²¹³ In its oral argument, New Mexico indicated that the average price for gas in the intrastate market is 88 cents per Mcf.
²¹⁴ The Pure Oil Company, 25 FPC 383 (1961).
²¹⁵ 18 CFR § 154.93.
²¹⁶ Required by Order No. 539-B, issued July 30, 1976, in Docket No. RM76-8, as implemented by § 157.41 of the regulations.
²¹⁷ 15 U.S.C. 717c, 717d, 717f.
²¹⁸ *United Gas Pipe Line Co. v. FPC*, 385 U.S. 83, 89 (1966).
²¹⁹ Cf. *F.P.C. v. Louisiana Power & Light Co.*, 406 U.S. 621 (1972); *F.P.C. v. Panhandle Eastern Pipe Line Co.*, 337 U.S. 498, 502-516 (1949); *Panhandle Eastern Pipe Line Co. v. Public Service Comm'n. of Indiana*, 332 U.S. 507, 514-521 (1947); *Interstate Natural Gas Co. v. F.P.C.*, 331 U.S. 682, 689-690 (1947); *Colorado Interstate Gas Co. v. F.P.C.*, 324 U.S. 581, 601-603; *F.P.C. v. Hope Natural Gas Co.*, 320 U.S. 591, 609-613 (1944); *Illinois Natural Gas Co. v. Central Illinois Public Service Co.*, 314 U.S. 498, 506-508 (1942).
²²⁰ Quoting H.R. Rep. No. 709, 75th Cong., 1st Sess. (332 U.S. at 517-518, footnote 13).
²²¹ Petitioners' reference to LP&L (Pet., pp. 22-23) is puzzling for that case adds no

support to their argument that the Commission can regulate rates for natural gas sold in intrastate commerce. On the contrary, LP&L (406 U.S. at 641) reaffirms Panhandle's conclusion (332 U.S. at 523) with respect to the breadth of the Commission's transportation jurisdiction under Section 1(b) and distinguishes the Commission's ratesetting jurisdiction (406 U.S. at 639-640).

²²¹ Source: U.S. Bureau of Mines and F.P.C. Form 11.

²²² *Placid Oil Co. v. F.P.C.*, 483 F.2d 880, 891 (1973), affirmed sub nom. *Mobil Oil Corp. v. F.P.C.*, — U.S. —, (June 10, 1974) (see slip opinion at 43).

²²³ *Mobil Oil Corp. v. F.P.C.*, supra (slip opinion at 43), citing *Permian Basin Area Rate Cases*, 390 U.S. 747, 767 (1968).

²²⁴ *Mobil Oil Corp. v. F.P.C.*, 417 U.S. 283, 318-320 (1974).

²²⁵ Id., p. 321.

²²⁶ Id., p. 320.

²²⁷ *Shell Oil Co. v. F.P.C.*, 50 F.2d 1061, 1077 (1975).

²²⁸ Required by Order No. 539-B, issued July 30, 1976, in Docket No. RM76-8, as implemented by Section 157.41 of the Regulations. See also FPC Opinion No. 780, issued October 15, 1976.

²²⁹ Statements of Commissioners Smith and Watt, concurring in part and dissenting in part, filed as part of the original.

[Docket No. R-393, RM 76-5]

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Order Denying Rehearing of Opinion No. 742-A and Order No. 553

NOVEMBER 5, 1976.

On August 23, 25, 26, and 27, 1976, the Four Corners Gas Association, Inexco Oil Company, Columbia Gas Transmission Corporation, Jerome P. McHugh and Associates, and Texaco, Inc. filed applications for rehearing, reconsideration and clarification of Opinion No. 742-A and Order No. 553, 41 FR 32212, Aug. 2, 1976, both issued July 27, 1976 in the above-referenced docket. On September 9, 1976, Tennessee Gas Pipeline Company filed an untimely application for rehearing and reconsideration of Opinion No. 742-A and Order No. 553, which shall be treated solely as an application for reconsideration of the above-referenced Opinion and Order.¹

Columbia, McHugh, Four Corners, and Tennessee assert that the Commission erred in requiring a prospective rollback of rates to the levels prescribed by Opinion No. 742-A. Inexco also urges the Commission to reinstate indirect regulation to "insulate small producers from refund obligations". These assertions are without merit. It not only would be illogical, but also illegal for the Commission to establish uniform "just and reasonable" ceiling rates for small producer

sales and then permit either directly or indirectly rates for such sales to exceed this "just and reasonable" level.

Texas once again contests " * * * the establishment and maintenance of a price differential between 'small' and larger producers * * * ". The essence of Texaco's arguments is that the Commission's refusal to provide any small producer rate differential for the 1975-1976 biennium rate structure constitutes an implicit recognition of the invalidity of the allowance of small producer rate differentials for previous vintages. Texaco's assertions in this regard are not persuasive. The evidentiary record, as set forth in Opinion No. 743-A, justifies allowing small producers a higher rate of return on all but "new" sales of natural gas and such record support need not be reiterated again.

The 20 percent rate of return was not applied to sales of "new" gas by small producers for the reasons set forth in Opinion No. 742-A, i.e., the Commission found that the "new" gas rate without a 20 percent rate of return was a sufficient incentive for small producers to search for and obtain new supplies. The validity of this statement is borne out by a comparison of the average unregulated market price of natural gas,² and the "new" gas rate as modified by a 20 percent rate of return (197.34 cents per Mcf with a 4 cents escalation).³ The modified "new" gas rate would exceed the average unregulated market price for gas thereby exceeding in most instances any definition of a cost based rate.

Texaco again argues that the 10 Bcf dividing line between small and large producers is discriminatory. This argument was disposed of in Opinion Nos. 742 and 742-A, and need not be repeated herein.

Finally, the following corrections are necessary in Opinion No. 742-A:

- (1) The Texas production tax in Appendix C should be 7.5 percent not 7.500 percent.
- (2) Under §§ 157.40(c)(1), 157.40(c)(2), 157.40(c)(2)(a), and 157.40(c)(2)(b), the word "maximum" should be changed to "maximum base" since production taxes and quality adjustments may be added to such rates.

The Commission finds. The applications for rehearing, reconsideration and clarification present no facts or principles which warrant any changes or modification to Opinion Nos. 742-A, 742-B, 742-C, Order Nos. 553 and 553-A.

The Commission orders. The applications for rehearing, reconsideration and clarification are denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33597 Filed 11-12-76; 8:45 am]

¹ See Opinion No. 770 at 113-114, and Opinion No. 770-A at 133-34.

² Actually a 19.16 percent "computational" rate of return is used to derive this figure.

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q; Docket No. R-0063]

PART 217—INTEREST ON DEPOSITS

Interest Penalty on Early Withdrawal and Minimum Deposit Requirements for Keogh (H.R. 10) Plans

The Board of Governors has amended Regulation Q, effective immediately, to permit member banks to pay all or a portion of a time deposit prior to maturity without imposing the early withdrawal penalty when the deposit represents funds deposited to a Keogh (H.R. 10) plan and when the individual for whose benefit the account is maintained attains age 59½ or becomes disabled.

The Board has also amended Regulation Q, effective immediately, to permit member banks to waive the \$1,000 minimum denomination requirement for time deposits with 4- and 6-year maturities at ceiling rates of 7¼ and 7½ percent when such deposits are made pursuant to Keogh plans. The purpose of these amendments is to facilitate the establishment of Keoghs pursuant to Congress's intent to encourage self-employed individuals to save for their retirement and to provide a convenient means for payout of such funds to Keogh participants in the future.

Similar amendments applicable to Individual Retirement Accounts were adopted by the Board in December 1975 (40 FR 57663), in order to encourage the establishment of IRAs by persons not participating in other pension plans and to provide for the orderly administration of IRAs by member banks. At that time, the Board announced that it was continuing to study the statutory differences relating to the administration and operation of Keoghs and IRAs in order to determine whether the IRA amendments should be made applicable to deposits held by member banks pursuant to Keogh plans. After consideration of this matter, the Board has determined that it is appropriate to extend the exceptions from the early withdrawal penalty and from the \$1,000 minimum denomination requirement to deposits made pursuant to Keogh arrangements.

The Board has determined that imposition of the Regulation Q penalty for withdrawals prior to the maturity of the time deposit in instances where withdrawals of Keogh funds are legislatively authorized (upon the individual's attaining the age of 59½ or upon disability or death) is generally inappropriate in view of Congress's intent to encourage self-employed individuals to save for their future needs. As a result of this amendment, member banks will be permitted to distribute the Keogh deposit balance in a single sum payment without penalty when such distribution is made in accordance with the terms of the

¹ See section 19(a) of the Natural Gas Act, 15 U.S.C. 717(R).

Keogh agreement between the banks and the participants. In addition, member banks may establish Keoghs from which participants may receive periodic, annuity-like payments with no reduction in the rate of interest paid where funds are paid prior to maturity of the underlying time deposit.

The Board has determined also that it is appropriate to waive the \$1,000 minimum required to obtain 4- and 6-year time deposits at ceiling rates of 7½ and 7½ percent for funds deposited pursuant to Keogh plans in view of the long-term nature of Keoghs and in view of Congress's intent to encourage self-employed individuals to save for their retirement. Since virtually all Keoghs will ultimately contain in excess of \$1,000 per account, the Board believes that waiver of the \$1,000 minimum requirement will facilitate the operation of Keoghs by eliminating the need for individuals to maintain Keogh deposits at lower interest rates until the \$1,000 minimum is obtained. Waiver of the minimum requirement will also permit member banks to pay higher rates on Keogh funds at the inception of the Keogh plan, thereby encouraging the establishment of Keoghs in general.

The Board has also determined that member banks may amend Keogh plans established prior to the effective date of these amendments in order to incorporate the benefits of these provisions. Accordingly, the Board will permit member banks to increase the rate of interest that may be paid on existing Keogh time deposits and/or change the maturity of existing Keogh time deposits from the effective date of this action without imposition of the Regulation Q penalty for early withdrawal.

The amendments adopted by the Board are intended to encourage individuals to establish Keoghs. In order to obtain the tax deferral benefits of Keogh deposits for the year 1976, depositors must have established Keogh plans by year-end. In response to the notice published in the Federal Register in December 1975, the Board has received and carefully reviewed numerous comments concerning issues raised by member banks offering Keogh plans under the Board's existing regulations. On the basis of these comments, the Board believes that it has obtained a broad and representative sampling of views and recommendations pertaining to the offering of Keoghs by financial institutions. In view of the substantial public benefits resulting from adoption of the Board's amendments as soon as possible, and because the issues involved are indistinguishable from those considered by the Board when similar amendments applicable to IRAs were adopted, the Board finds that notice and public procedure are impracticable and unnecessary (5 U.S.C. 553 (b)). Since the amendments are more permissive than existing regulations and relieve existing regulatory restrictions, and because of the need to adopt the amendments before year-end, the Board has determined that good cause exists

to make the amendments effective immediately (5 U.S.C. 553(d)).

Pursuant to § 19 of the Federal Reserve Act (12 U.S.C. 371b), effective November 8, 1976, §§ 217.4 and 217.7 of Regulation Q (12 CFR 217) are amended as follows:

§ 217.4 Payment of time deposits before maturity.

(d) Penalty for early withdrawals.

Where a time deposit representing funds contributed to an Individual Retirement Account or a Keogh (H.R. 10) plan established pursuant to 26 U.S.C. (I.R.C. 1954) § 408, 401 is paid before maturity when the individual for whose benefit the account is maintained attains age 59½ or is disabled (as defined in 26 U.S.C. (I.R.C. 1954) 72(m)(7)) or thereafter, a member bank may pay all or a portion of such time deposit without a reduction or forfeiture of interest as prescribed by this paragraph.

§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.

(b) Time deposits of less than \$100,000.

(2) Member banks may pay interest on any time deposit of \$1,000 or more, with a maturity of four years or more, at a rate not to exceed 7½ per cent.

(3) Investment Certificates—Member banks may pay interest on any time deposit of \$1,000 or more, with a maturity of six years or more, at a rate not to exceed 7½ per cent.

*The \$1,000 minimum denomination requirement does not apply to time deposits representing funds contributed to an Individual Retirement Account or Keogh (H.R. 10) plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401.

Board of Governors of the Federal Reserve System, November 8, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-33654 Filed 11-12-76; 8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-EA-49; Amdt. 39-2769]

PART 39—AIRWORTHINESS DIRECTIVE

Grumman Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend and revise AD 75-14-04 applicable to Grumman G-164 type airplanes.

Since publication of the AD it has been determined that the deficiency has been found on an additional Grumman model, G-164B and also that serial numbered airplanes 1 thru 100 of the G-164 and G-164A model need not be included in the directive. Other editorial changes

have also been made making revision appropriate.

Since the safety aspect of the directive still exists as to the additional model, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 75-14-04 as follows:

(a) After the word "aircraft" in the applicability paragraph, insert the following: Numbers 101 and up, and G-164B, S/N 1B and up, certificated in all categories.

(b) Before the word "inspect" in paragraph 2.a., add, "For the models G-164 and G-164A."

(c) Add a new sentence 2.b. as follows: "For the Model G-164B inspect the rudder cables P/N A3860-1, -3 within the cockpit floorboard and chafe strip area for fraying."

(d) Change paragraph 2.b. to 2.c

(e) Add a new paragraph No. 5 which reads as follows: "Aircraft modified to incorporate the Pulley and Bracket P/N's AN220-1 and A1839-11/12 respectively are considered to have complied with the requirements of this AD."

(f) Change "Service Bulletin No. 56 dated May 1, 1957" to "Service Bulletin No. 56B dated October 4, 1976."

This amendment is effective November 17, 1976.

(Secs. 313(a), 601 and 603 Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), sec. 6(c); Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on November 3, 1976.

LOUIS J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.76-33518 Filed 11-12-76; 8:45 am]

[Docket No. 76-EA-71; Amdt. 39-2768]

PART 39—AIRWORTHINESS DIRECTIVE

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 76-05-07 applicable to Piper PA-36 type aircraft.

Since promulgation of the directive, it has been determined that additional airplanes are subject to the deficiency and must be included by serial number within the directive.

Since the same safety aspects exist for the amendment as found for the directive, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) section 39.13 of the Fed-

eral Aviation Regulations is amended by amending AD 76-05-07 as follows:

(a) In the applicability section delete "7560001" and insert in lieu thereof "7360001."

(b) In the last sentence after the word Service, delete "Bulletin 495 pertains" and insert in lieu thereof "Bulletins 495 and 495A pertain."

This amendment is effective November 17, 1976.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on November 3, 1976.

LOUIS J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 76-33517 Filed 11-12-76; 8:45 am]

[Airworthiness Docket No. 76-SW-56,
Amdt. 39-2770]

PART 39—AIRWORTHINESS DIRECTIVES

Rockwell International Model 114 Airplanes

There have been instances found, on airplanes modified in production by Rockwell International, that the carbon monoxide concentration allowed by the requirements has been exceeded. Since this condition is likely to exist on other airplanes in service, an airworthiness directive is being issued to require a modification which will prevent air vents from being completely closed.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

ROCKWELL: Applies to Model 114, S/N's 14089 through 14113, 14115 through 14122, 14125 through 14131, 14134 through 14149, 14152 through 14154, and 14156 through 14158.

Compliance required as indicated after receipt of this AD.

1. Within 10 hours after the effective date of this AD, unless already accomplished, modify the forward cabin vent valve and air ducts in accordance with Rockwell Service Bulletin No. SB-114-6 dated November 1, 1976, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Fort Worth, Texas.

2. Until compliance with paragraph 1 above is accomplished, the following operating procedure is required:

While climbing, the two vent valves located near the floor, below and outboard of the front seat passenger's leg must be in the full open position (allowing hot or cold air to pass from the duct into the passenger compartment). Also the cabin heat and/or

the cabin vent knobs located on the lower instrument panel just to the right of the center console must be in the full open position (pulled out to stop).

Operation in taxi, cruise, or glide is exempt from these restrictions.

This amendment is effective November 26, 1976, and was effective upon receipt for all recipients of the letter dated November 5, 1976, which contained this amendment.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Fort Worth, Texas, on November 4, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 76-33520 Filed 11-12-76; 8:45 am]

[Airspace Docket No. 76-EA-75]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CON- TROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Albany, N.Y., Transition Area (41 FR 442).

A pending minor change to the Saratoga County Airport, Saratoga Springs, New York VOR-A instrument approach procedure will require a corresponding change to the description of the transition area. The change will reduce the size of the area extension from 5 to 4 miles each side of the final approach course. Additionally, the final approach radial will be changed from 292° to 293° magnetic (279° true).

Since the foregoing amendment is minor in nature and does not impose any additional burden on any person, notice and public procedure are unnecessary.

In consideration, Part 71 of the Federal Aviation Regulations is amended effective 0901 December 30, 1976, as follows:

1. Amend Section 71.181 of Part 71 Federal Aviation Regulations by altering the description of the Albany, New York 700-foot floor transition area by deleting, "and within 5 miles each side of the Cambridge VORTAC 278° radial," and substituting therefor, "and within 4 miles each side of the Cambridge, New York 279° radial."

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on October 27, 1976.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 76-33519 Filed 11-12-76; 8:45 am]

[Airspace Docket No. 76-SO-81]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CON- TROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area

On September 13, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 38777), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Williamston, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rule-making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 30, 1976, as hereinafter set forth.

In § 71.181 (41 FR 440), the Williamston, N.C., transition area is amended to read:

WILLIAMSTON, N.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Martin County Airport (lat. 35° 51'45" N., long. 77°10'35" W.); within 3 miles each side of the 018° bearing from the Williamston RBN (lat. 33°51'39" N., long. 77°10'31" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on November 3, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 76-33523 Filed 11-12-76; 8:45 am]

[Airspace Docket No. 76-WE-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CON- TROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area

On September 2, 1976, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (41 FR 37120) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Los Banos, California Transition Area.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date: This amendment shall be effective 0901 G.m.t., December 30, 1976.

(Sec. 307(a) Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Los Angeles, California on November 2, 1976.

LYNN L. HINK,
Acting Director,
Western Region.

In § 71.181 (41 FR 440) the description of the Los Banos, California Transition Area is amended to read as follows:

LOS BANOS, CALIFORNIA

That airspace extending upwards from 700 feet above the surface within a 3-mile radius of Los Banos Municipal Airport (latitude 37°03'43" N., longitude 120°52'05" W.) and within 3 miles each side of the 348° radial extending from the 3 mile radius area to 6 miles south and 6 miles north of the airport.

[FR Doc.76-33524 Filed 11-12-76;8:45 am]

[Airspace Docket No. 76-GL-32]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Designation of Transition Area

On page 38778 of the FEDERAL REGISTER dated September 13, 1976, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Maryville, Ohio.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 g.m.t., February 24, 1977.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348), and of sec. 6(c) Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Des Plaines, Illinois on October 20, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.
MARYSVILLE, OHIO

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Union County Airport, (latitude 40°13'29" N, longitude 83°21'00" W); and within 2 miles on each side of the 088° bearing from the airport extending from the 5 mile radius area to 8 miles west of the airport.

[FR Doc.76-33521 Filed 11-12-76;8:45 am]

[Airspace Docket No. 76-PC-2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Controlled Airspace; Correction

In FR Doc. 76-26408 appearing at page 38762 in the FEDERAL REGISTER of September 13, 1976, the penultimate para-

graph is corrected in the fifth line of that paragraph by deleting "42°40' E." 265° bearing, extending from the" and substituting "42°42' E." 265° bearing, extending from the" therefor.

Issued in Washington, D.C., on November 9, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.76-33522 Filed 11-12-76;8:45 am]

**Title 24—Housing and Urban Development
CHAPTER X—FEDERAL INSURANCE
ADMINISTRATION**

**SUBCHAPTER B—NATIONAL FLOOD
INSURANCE PROGRAM**

[Docket No. FI-1090]

**PART 1917—APPEALS FROM FLOOD
ELEVATION DETERMINATION AND JU-
DICIAL REVIEW**

**Final Flood Elevation for City of Alexandria,
Missouri**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Alexandria, Missouri under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, Alexandria, Missouri 63430.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level
Mississippi River.....	Entire community.	492

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33311 Filed 11-12-76;8:45 am]

[Docket No. FI-1089]

**PART 1917—APPEALS FROM FLOOD
ELEVATION DETERMINATION AND JU-
DICIAL REVIEW**

**Final Flood Elevation for City of Bowling
Green, Missouri**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Bowling Green, Missouri under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, Bowling Green, Missouri 63334.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Tributary to Peno Creek.	20th St.	864	40	80
	16th St.	870	70	70
	15th St.	871	120	140
	14th St.	872	60	80
	13th St.	874	40	110

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33310 Filed 11-12-76;8:45 am]

[Docket No. FI-2186]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JU- DICIAL REVIEW

Final Flood Elevation for City of Brentwood, Missouri

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10), hereby gives notice of the final determinations of flood elevations for City of Brentwood, Missouri under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management

measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 2348 Brentwood Boulevard, Brentwood, Missouri 63144.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Deer Creek	Breckenridge Industrial Court	450	(1)	570
	Brentwood Blvd.	455	(1)	1,475
Black Creek	State Route 100	453	800	(1)
	Litzinger Rd.	453	150	350
	Agnes Ave.	467	490	410
Tributary to Black Creek.	High School Dr.	483	100	230

¹ Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33309 Filed 11-12-76;8:45 am]

[Docket No. FI-2005]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for City of Elk River, Minnesota

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Elk River, Minnesota under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program,

the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, Main and Highway 10, Elk River, Minnesota 55330.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Mississippi River	Wright County Road 130	885	(1)	25
Elk River	Main St. (downstream side)	899	75	75

¹ To corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33312 Filed 11-12-76;8:45 am]

[Docket No. FI-2163]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for City of Iowa City, Johnson County, Iowa

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Iowa City, Johnson County, Iowa under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the lobby of the Civic Center, 410 East Washington Street, Iowa City.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Clear Creek	Corporate limits	667	800	250
	Camp Cardinal Rd.	663	1,140	180
Iowa River	Corporate limits	658	860	400
	Corporate limits	658	30	
	(West) Park Rd. (extended)	651	480	100
	At Normandy Dr.	651		
	At Taft Speedway	650		
	At City Park	649		
	Park Road (east)	649	20	70
	Church St. (extended)	648	340	230
	Bloomington St. (extended)	648	40	80
	Newton Rd.	647	20	40
	Burlington St.	646	20	50
	Chicago, Rock Island and Pacific RR.	643	40	200
	West Benton St.	643	80	120
	U.S. Route 6	642	15	110
	Stevens Dr. (extended)	642	420	860
Willow Creek	Chicago, Rock Island and Pacific RR.	641	510	190
	Corporate limits	639		70
	Iowa River	639	220	420
	Riverside Dr.	644	130	15
	Iowa City Municipal Airport		(c)	
	Corporate limits	677	1,900	190
	do.	678	1,140	750
	West Benton St.	692	160	80
	Mormon Trek Blvd.	696	160	120
	Iowa River	645	2,000	1,930
Ralston Creek	U.S. Route 6	645	15	110
	Kirkwood Ave.	648	350	1,480
	Benton St.	650	240	710
	Chicago, Rock Island and Pacific RR.	654	120	110
	Prentice St.	656	220	250
	Burlington St.	662	180	280
	Washington St.	662	400	420
	North Johnson St.	664	320	470
	Dodge St.	666	80	510
	Muscataine Ave.	668	190	400
	Jefferson St.	672	120	110
	Rochester Ave.	674	40	60
	Confluence with Ralston Creek	670	170	620
	College St.	671	110	190
	Court St.	673	240	190
South Branch Ralston Creek	Center Ave.	676	130	690
	Sheridan Ave.	678	220	480
	7th Ave. (extended)	684	80	320
	F St.	688	160	350
	Muscataine Ave.	690	240	290
	3rd Ave.	692	200	210
	1st Ave.	694	270	880
	Brookside Dr.	700	30	20
	Corporate limits	713	240	90

¹ Downstream.² Upstream.³ Sheet flooding.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 21, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33304 Filed 11-12-76; 8:45 am]

[Docket No. FI-1091]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JU- DICIAL REVIEW

Final Flood Elevation for City of North Muskegon, Michigan

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of North Muskegon, Michigan under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory au-

thority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 1502 Ruddiman Avenue, North Muskegon, Michigan 49445.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width—approximate distance in feet from shoreline of extended roads to boundary of 100-yr floods
Muskegon Lake	Mac Lane	584	220
	East Circle	584	660
	Second	584	580
	Center	584	1,080
Beak Lake	Garber	584	20
	Fleming	584	160
	Elmer	584	840
	Center	584	640

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33313 Filed 11-12-76; 8:45 am]

[Docket No. FI-2150]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for City of Tiburon, California

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Tiburon, California under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Pro-

gram, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 80 Main Street, Tiburon, California 94920.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Downtown drainage	Mar West St.	9	10	100
Tiburon drainage	do.	5	50	(1)
Reed drainage No. 1	Tiburon Blvd.	11	40	70
Reed drainage No. 2	Hilarita Dr.	12	(1)	30
Hilarita drainage	Northwestern Pacific RR.	12	180	20
Rock Hill drainage No. 1	Hawthorne Dr.	26	20	90
Rock Hill drainage No. 2	Northwestern Pacific RR.	9	140	5
	Hawthorne Dr.	22	15	5
Trestle Glen drainage	Mercury Ave.	9	180	30
Richardson Bay	Trestle Glen drainage	6		700

¹ To corporate limits.
² Distance from shoreline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C.

4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33316 Filed 11-12-76; 8:45 am]

[Docket No. FI-1055]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JU- DICIAL REVIEW

Final Flood Elevation for City of Velva, North Dakota

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Velva, North Dakota under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain

management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, Velva, North Dakota 58790.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Souris River.....	State Highway 41.....	1,511	3,340	20

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 21, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33317 Filed 11-12-76; 8:45 am]

[Docket No. FI-2187]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JU- DICIAL REVIEW

Final Flood Elevation for County of Marion, Missouri

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the County of Marion, Missouri under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

County must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Marion County Courthouse, Palmyra, Missouri 63461.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Mississippi River.....	Burlington-Northern R.R.....	488	27,500	(1)
	Route 6.....	487	24,000	(1)
	Route 184.....	484	14,000	(1)
	Route 186-188.....	481	18,000	(1)

To corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33320 Filed 11-12-76;8:45 am]

[Docket No. FI-2180]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JU- DICIAL REVIEW

Final Flood Elevation for Ozaukee County, Wisconsin

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for Ozaukee County, Wisconsin under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the County must adopt flood plain manage-

ment measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Ozaukee County Courthouse, 121 West Main Street, Port Washington, Wisconsin 53074.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Milwaukee River.....	County Trunk Highway I and State Highway 84.....	787	200	250
	County Trunk Highway A and State Highway 84.....	783	210	260
	Chicago, Milwaukee, St. Paul & Pacific R.R.....	764	60	250
	County Trunk Highway I.....	682	800	30
	County Trunk Highway C.....	671	1,400	1,350
	Riverside Dr.....	801	800	220
North branch of the Milwaukee River, Cedar Creek.....	County Trunk Highway Y.....	834	150	50
	State Highway 143.....	830	100	100
	Kraehlers Mill Rd.....	827	750	120
	Covered bridge.....	822	75	200
	Covered Bridge Rd.....	822	125	700
	Cedar Creek Rd.....	821	500	25
	do.....	820	25	150
	County Trunk Highway I.....	818	300	150
	Cedar Creek Rd.....	817	150	150
	State Highway 60.....	809	100	20
	Driveway.....	736	75	25
	Chicago, Milwaukee, St. Paul & Pacific R.R.....	732	100	25
	County Trunk Highway T.....	712.5	100	25
	Green Bay Rd.....	701	50	50

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33319 Filed 11-12-76; 8:45 am]

[Docket No. FI-1146]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JU- DICIAL REVIEW

Final Flood Elevation for Town of Duxbury, Massachusetts

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Duxbury, Massachusetts under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 178 George Street, Duxbury, Massachusetts 02332.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width—Approximate distance in feet from shoreline to boundary of 100-yr flood
Kingston Bay	Landing Rd.	11	600
	Howlands Landing	11	140
Duxbury Bay	Windsor St.	11	140
	Linden Lane	11	350
	Shipyard Lane	11	160
	Hardin Hill Road	11	180

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 21, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33306 Filed 11-12-76; 8:45 am]

[Docket No. FI-2154]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JU- DICIAL REVIEW

Final Flood Elevation for Town of Avon, Connecticut

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Avon, Connecticut under § 1917.8 of

Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were re-

ceived from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the

detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 60 West Main Street, Avon, Connecticut 06001.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Farmington River	Route 44	163.3	720	300
	Old Farms Rd.	169.0	250	2,130
Roaring Brook	Blueberry Lane	276.5	150	200
	Country Club Rd.	273.2	40	100
	Bellosguardo Rd.	250.1	200	90

¹ Elevation at upstream side of road.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33315 Filed 11-12-76;8:45 am]

[Docket No. FI-2153]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Town of Farmington, Connecticut

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Farmington, Connecticut under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 1 Monteith Drive, Farmington, Connecticut 06032.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Farmington River	Collinsville Rd. (Route 4)	209	250	200
	South Main St. (Route 177)	107	300	100
	Penn Central	179	350	300
	Farmington Ave. (Route 4)	171	400	4,200
Pequabuck River	Meadow Rd.	171	5,800	250
	Scott Swamp Rd. (Route 10 and 202)	171	350	900

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33314 Filed 11-12-76;8:45 am]

[Docket No. FI-2156]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JU- DICIAL REVIEW

Final Flood Elevation for Town of New Canaan, Connecticut

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of New Canaan, Connecticut under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 77 Main Street, New Canaan, Connecticut 06840.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Five Mile River	Merritt Pkwy	147	150	200
	Old Norwalk Rd	160	10	40
	East Ave	203	60	160
	Lambert Rd	337	70	70
Silvermine River	Borghum Rd	170	200	(1)
	Huckleberry Mill Rd	240	80	100
	Marlomi Rd	255	70	180
	Hickory Rd	266	190	200
Rippowam River	Ponus Ridge	253	200	100
	Dan's Highway	360	70	40
	Piney Rd	418	60	100
	Merritt Pkwy	136	400	200
Noroton River	Indian Waters Dr	162	70	430
	Frogton Rd	340	40	30
	Whalrackleme Rd	279	130	100
Parting Brook	Thayer Pond Rd	338	50	(1)
	Parting Brook Rd	387	50	(1)

¹ Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 21, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33307 Filed 11-12-76; 8:45 am]

[Docket No. FI-2152]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JU- DICIAL REVIEW

Final Flood Elevation for Town of Simsbury, Connecticut

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Simsbury, Connecticut under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. There-

fore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for

review at Town Offices, 760 Hopmeadow Street, Simsbury, Connecticut 06070.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Farmington River	Hartford Rd. (Route 185)	160	1,750	50
	Drake Hill Rd.	157.5	1,500	50
	Tariffville Rd.	155	1,250	150
	Route 189	150	100	50

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33302 Filed 11-12-76; 8:45 am]

[Docket No. FI-1122]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Town of St. Francisville, Louisiana

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of St. Francisville, Louisiana under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, St. Francisville, Louisiana 70775.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Gaspers Creek	Commerce St.	82	200	270
	U.S. Highway 61	114	150	135
	State Highway 10	114	90	210
Alexander Creek	U.S. Highway 61	87	840	(1)
	State Highway 10	92	570	(1)

¹ Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33305 Filed 11-12-76; 8:45 am]

[Docket No. FI-1098]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Town of Wethersfield, Connecticut

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Wethersfield, Connecticut under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain manage-

ment measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut 06109.

Accordingly, the Administrator has determined the 100-year (i.e., flood with 1 percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Connecticut River	William H. Putnam Memorial Bridge	30	410	(2)
Folly Brook	Stillman Rd.	48	100	360
	Jordan Lane	51	30	100
	Nott St.	54	490	200
	Wells Rd.	63	75	310
Beaver Brook	Middletown Ave.	31	(1)	230
	Church St.	32	170	220
	Nott St.	37	120	260
Goff Brook	Silas Deane Highway	32	180	10
	Maple St.	36	20	20
	Oriswold Rd.	90	250	190
	Copper Mill Rd.	121	40	10
	Lantern Lane	145	20	20
	Highcrest Rd.	156	60	50
	Highland St.	221	100	160
Tributary A	Carriage Hill Dr.	22	30	20
	Fox Hill Rd.	125	60	50
	Cloverdale Cr.	130	20	30
	Copper Mill Rd.	150	30	20
Two Stone-Collier Brook	Highland St.	109	20	10
	Golf Course Bridge	145	70	60
	Prospect St.	157	110	80
	Willow St.	169	90	50
	Goff Rd.	224	10	10

¹ Entire street to junction with Maple St.

² Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33303 Filed 11-12-76; 8:45 am]

[Docket No. FI-2007]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Town of Yarmouth, Massachusetts

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the

Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Yarmouth, Massachusetts under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the

National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. There-

fore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Office Building, Yarmouth, Massachusetts 02664.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary
Nantucket Sound.....	Columbus Ave.....	10	170 ft from intersection with West Rd.
	Crowes Purchase Rd.....	10	1,140 ft from intersection with Sea Ave.
	Canary Lane.....	10	250 ft from intersection with Lake Rd.
Cape Cod.....	Lone Tree Rd.....	10.5	560 ft from intersection with Thatcher Shore Rd.
	Old Salt Ketch Lane.....	10	470 ft from intersection with Center St.
	Whippoorwill Lane.....	10	200 ft from intersection with Gaslight Dr.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33308 Filed 11-12-76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular No. 2411]

PART 3720—PUBLIC LAW 357; GENERAL

Entry and Location of Source Material Upon Public Lands Valuable for Coal

The Act of August 11, 1955 (30 U.S.C. 541-541i), provided for entry and location, on discovery of a valuable source material, upon public lands of the United States classified as or known to be valuable for coal and for other purposes.

These lands were withdrawn from all forms of entry as of August 11, 1975, pursuant to section 10 of the Act. This withdrawal terminated all activity under the Act except for requirements of the annual report and payment to be made by a claimant to the U.S. Geological Survey, which will still be operative.

In addition, all claims made under the Act expired on August 11, 1975, except those on which patent had been issued or application for patent had been made. We are unaware of any pending applications for patent.

Therefore 43 CFR 3720 is hereby amended by deleting subparts 3720, 3721, 3723, and 3724.

CHRIS FARRAND,
Deputy Assistant Secretary
of the Interior.

NOVEMBER 9, 1976.

[FR Doc.76-33579 Filed 11-12-76;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 206—MISCELLANEOUS FEES

PART 207—STATISTICAL DATA FOR USE IN OPERATING-DIFFERENTIAL SUBSIDY APPLICATION HEARINGS

Revision and Adoption of Regulations

On April 28, 1976, a document was published in the FEDERAL REGISTER (41 FR 17750) proposing to revise the rules on production of statistical data and reports. A revised Part 206 of Title 46 of the Code of Federal Regulations would be applicable only to requests for the production of statistical data and reports other than those required by the Maritime Subsidy Board (Board) in connection with hearings under section 605(c), Merchant Marine Act, 1936, as amended (Act). A new Part 207 of Title 46 of the Code of Federal Regulations would be applicable to statistical data and reports required by the Board in hearings under section 605(c) of the Act.

Public comments were received from two parties, one a private attorney respected in the field of administrative and maritime law and the other a bar association whose membership specializes in maritime law. All comments were given due consideration and most are discussed below.

Before addressing the public comments, it is deemed useful to explain the basic purposes of the proposed rulemaking. The Board recognized the extended delays in production of necessary data

and reports in connection with hearings under section 605(c) of the Act. The cause of said delays was the practice of individual programming of automated data tailored to the requirements of a given hearing. The solution developed was to standardize the statistical data and reports and to maximize use of automatic data processing as opposed to manual compilation. Development of the standardized data was based upon analysis of data produced in past hearings under section 605(c) of the Act. Permanent programs have been written for the automated data equipment in service at the Maritime Administration. It is anticipated that production of the statistical data and reports will be accomplished within thirty (30) days of the referral of an operating-differential subsidy (ODS) application to hearing under section 605(c) of the Act. It was deemed more convenient to the public to separate the subject of statistical data and reports for hearings under section 605(c) of the Act from the subject of other requests for statistical data and reports.

The private attorney offering comments urges adoption of the new Part 207, and remarks on two matters collateral thereto. No comment is offered with respect to the revised Part 206.

The first collateral comment is that production of statistics for use in hearings under section 605(c) of the Act was too slow. As noted above, the primary purpose of the proposal is to overcome this shortcoming.

The second collateral comment addresses the compatibility of statistics prepared by diverse Federal agencies. Within available resources, the Maritime Administration will continue to study this situation to determine whether a feasible solution exists for the apparent inconsistencies. In any event, the instant rulemaking proceeding is not the proper vehicle for resolution of that question.

The specialized bar association offers a variety of comments, most of which are devoted to the new Part 207. Most such comments, and all those of major substance, are discussed in the following eleven paragraphs.

1. A "reservation" is expressed as to the claimed exemption from the rule-making provisions of 5 U.S.C. 553, followed by the factual statement that those procedural requirements have been observed. The matter is moot and needs no explication.

2. Concern is expressed that the charges listed in the revised Part 206 be no greater than those levied by other Federal agencies. The charges will cover the production costs incurred and will be in line with charges throughout the Department of Commerce. Periodic reviews will be undertaken to assure this remains the case. Indeed, since publication of the Notice of Proposed Rulemaking, a review has been completed which requires increases in two of the charges; namely, Programmer/Analyst Man-Hour Regular Time increases from \$14.28 to \$22.80 and Statistician/Analyst Man-Hour Regular Time increases from \$13.50 to \$17.35.

The following paragraphs pertain to the proposed new Part 207.

3. The understanding is stated that no change in the requisite burden of proof or quantum of proof in hearings under section 605(c) of the Act is intended. This understanding is correct.

4. With respect to Report 001 and Report 002 it is said that intrastate cargo is included and four digit commodity code classification should be supplied where available. As to the former point, intrastate shipments are not included. Port-to-port shipments are attributed to the pertinent trade routes without regard to overland shipment. For example, a shipment from Japan to Germany through the United States is attributed to Trade Route 29 for the movement from Japan to California and to Trade Route 7 for the movement from New York to Germany. As to the latter point, three digit commodity codes are continued and reflect historical practice which has worked over the years in numerous hearings under section 605(c) of the Act. Any party wishing four digit commodity codes may request them under revised Part 206.

5. With respect to proposed Report 004 it is said that the number of containers (both actual and "twenty foot equivalent units") and cubic of cargo should be expressed, and that the figures should be limited to liner service with tramp vessel carriage of ten or more containers either excluded or stated separately. The first suggestion has been adopted and said Report has been revised to reflect the number of containers and the cubic of cargo carried for all operators reporting container movements. The distinction between containers moving in liner service and in tramp service, and expression in "twenty foot equivalent units," cannot be accomplished technically at this time. A study has begun to determine whether it is feasible to produce such information.

6. With respect to Report 005 it is suggested that sailings should appear by coastal district, that sailings which call two or more trade routes should be clarified and that operators, in addition to flags, should be shown. The format of the Report reflects the data produced for numerous past hearings under section 605(c) of the Act. As to the multiple trade route sailings, the Report will continue to credit sailings on each trade route served. For example, a San Francisco-Tokyo-Singapore-San Francisco sailing will appear as one inbound and one outbound on both Trade Route 17 and Trade Route 29. The other two suggestions would expand the information provided and no justification therefore is stated or apparent. Noting that sailings by coastal district was requested in one hearing only recently, the single instance does not establish the utility of standard production in all hearings under section 605(c) of the Act.

7. A general suggestion applicable to all Reports is that production of statistical data and reports on a service basis within a trade route not be precluded where the ODS application covers only a service within a trade route. This suggestion is substantially accommodated in the proposal. Reports 002, 003, and 004

provide a coastal district division. Report 001 is a summary, and Report 005 was addressed above. Recalling that the basic purpose of the proposal was to standardize production of what, in fact, has been produced in past hearings under section 605(c) of the Act, the parties in hearing will be able to present their positions on a coastal district basis and to disregard the balance of the information produced.

8. Another general suggestion applicable to all Reports is that a written explanation of the source of each and a brief statement describing how the data was prepared should be added. This suggestion has much merit. The staff is preparing such explanation and statement and they will appear as a subsequent amendment to Part 207. It is noted that the staff witness will remain available in individual hearings under Section 605(c) of the Act for such testimony as might be required.

9. After noting that the proposal limits data to the most recent three years available at the time of referral to hearing and that no provision is made for production of preliminary or partial data, objection is lodged as to use of the referral date rather than the date of actual production and it also is recommended that provision be made to the effect that partial and preliminary data will not be provided without charge "except for unusual circumstances." In view of the planned production of statistical data and reports within thirty (30) days of referral to hearing, the measurement date is reasonable. Neither is the suggestion for exceptional production of partial and preliminary data accepted. The proposal establishes a general system of production which will suit virtually all hearings under section 605(c) of the Act. Even in the event of grave and substantial disruptions on a given trade route, the parties would wish and need the statistical data and reports for the three years available. If any party decided on the need for partial or preliminary data covering a more current period of time, a request could be submitted under the proposed new Part 206. It should be expected that production thereof would take an extended period of time and that the statistics would be unedited and of questionable reliability. However, the fundamental insufficiency of the statistical data and reports for the most recent three years available at the time of referral to hearing and the relevance and reliability of any partial or preliminary data sought are questions to be resolved routinely as part of the normal hearing process.

10. The provision for preserving the confidentiality of data in appropriate circumstances is questioned. The concerns are more apparent than real. It must be recalled that the proposal is directed to swift and efficient production of standardized statistical data and reports. Production is a staff function preceding the hearing under Section 605(c) of the Act; indeed, it precedes the prehearing. Past experience proves that waivers permitting disclosure are common; hence, specific mention is made of

this device strictly on practical grounds. In the absence of waiver as to confidential information, the full procedures of the rules of practice and procedure (46 CFR Part 201) are available. Thus, the specter of a totally frustrated hearing under section 605(c) of the Act, due to the confidential character of information which ordinarily would be produced, is not realistic. The Administrative Law Judge remains invested with powers conferred by the Board which are fully adequate to development of a record upon which a recommended decision may be reached.

11. There is a general misapprehension that the vital role of the Administrative Law Judge is somehow diminished by the proposal. Such was not the intent, nor is it the result. The routine staff function of producing statistical data and reports preliminary to any consideration by the Administrative Law Judge, even in prehearing, has been noted. Recalling that the Administrative Law Judge sits in a hearing under section 605(c) of the Act as the representative of the Board, and in light of past experience and the fact that the source of the information is the Maritime Administration staff, the requirement that the statistical data and reports be received into evidence is reasonable and is not an intrusion upon the authority of the Administrative Law Judge. Furthermore, notwithstanding this requirement and adoption of the earlier suggestion that the several Reports include a statement of source and an explanation of how the data was prepared, a staff witness will be available in individual hearings under section 605(c) of the Act for such testimony as might be required. Finally, the expressed confusion over the staff level processes for resolving questions as to the scope of statistics to be produced is ill-founded. The mechanism at staff level was designed to resolve quickly and efficiently any question as to production, if at all possible, so that the imminent hearing would be expedited. The suggestion that the final decision at staff level before and apart from the hearing is subject to direct petition for review to the Secretary of Commerce is absolutely wrong.

Finally, in the course of considering the public comments it became evident that one change in the proposed revised Part 206 is impractical and ought to be abandoned. The Assistant Administrator for Maritime Aids was the official proposed to receive all special requests for statistical data and reports. However, that official does not have jurisdiction over all information which might be requested. Therefore, designation of the official currently identified in 46 CFR Part 206 is continued and all such requests will be submitted to the Assistant Secretary for Maritime Affairs, who will refer the request to the appropriate subordinate official for action or recommendation.

As a result of the comments received and the foregoing discussion, the following changes in the proposed rules are made:

1. The phrase "Assistant Administrator for Maritime Aids, Maritime Administration, U.S. Department of Commerce, Room 4099A, 14th and E Streets, NW., Washington, D.C. 20230." in § 206.2(a) is deleted and the phrase "Assistant Secretary for Maritime Affairs, Maritime Administration, U.S. Department of Commerce, Room 3898B, 14th and E Streets, NW., Washington, D.C. 20230." is substituted therefor.

2. The phrase "Assistant Administrator for Maritime Aids" in § 206.2(b) is deleted and the phrase "Assistant Secretary for Maritime Affairs" is substituted therefor.

3. In § 206.4, the figures 14.28 and 13.50 are deleted and the figures 22.80 and 17.35, respectively, are substituted therefor.

4. The format styled "Report 004" in § 207.2(a) is deleted in its entirety and a new format is substituted therefor.

5. An explanatory statement for the terms "Containers" and "Cubic Feet" is added to the "Explanation of Terms" under § 207.2(a).

Accordingly, the revision of 46 CFR Part 206 and the new 46 CFR Part 207 are adopted as set forth below.

Effective date: These regulations shall become effective on November 15, 1976.

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: NOVEMBER 9, 1976.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Subsidy
Board/Maritime Administration.

Subpart A of Part 206 of CFR Title 46 is revised to read as follows:

Subpart A—Charges for Special Statistical Data

- Sec.
206.1 Purpose.
206.2 Requests for data.
206.3 Confidentiality of data.
206.4 Charges.

AUTHORITY: Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Public Law 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).

Subpart A—Charges for Special Statistical Data

§ 206.1 Purpose.

The purpose of this subpart is to establish the policy and procedures applicable to requests for statistical data and reports, other than those provided pursuant to Part 207 of this subchapter.

§ 206.2 Requests for data.

(a) *Requests.* Any request for statistical data or reports maintained by the

Maritime Administration, other than those provided pursuant to Part 207 of this subchapter, shall be submitted in writing to the Assistant Secretary for Maritime Affairs, Maritime Administration, U.S. Department of Commerce, Room 3898B, 14th and E Streets, NW., Washington, D.C. 20230. The request must contain a detailed narrative explanation of the information requested and of the output report format desired which indicate: whether the data are to be coded, decoded, or both; the order in which the data are to be presented; the totals and subtotals required for each category, as appropriate; and the number of reports required. The request must also clearly indicate that it is submitted pursuant to this subpart.

(b) *Approval of request.* Approval, in whole or in part, of any request submitted pursuant to paragraph (a) of this section will be made at the discretion of the Assistant Secretary for Maritime Affairs on the basis of the nature and scope of the work, the availability of personnel and administrative services, and other considerations pertaining to the feasibility of producing the requested information.

(c) *Notification of approval or disapproval.* Upon approval, in whole or in part, or disapproval in whole, of any request submitted pursuant to paragraph (a) of this section, the requesting party will be notified of the following: The statistical data and reports which can be produced; the statistical data and reports which cannot be produced, if any, and the reasons therefor; the estimated time to effect production, based on the charges set forth in § 206.4, which amount must be received before work begins.

(d) *Cost adjustment.* If the amount of the advance payment required by paragraph (c) of this section is insufficient to cover the actual cost of production, the requesting party will be required to make payment of the additional amount necessary before work will be continued. In the event that the amount of the advance payment exceeds the actual cost of production, the amount of the excess payment will be refunded.

§ 206.3 Confidentiality of data.

The original sources of statistical data requested under this subpart are "business confidential" and data shall not be supplied in such form as to permit competitors to extrapolate the data supplied by the original sources to the Maritime Administration and, thereby, determine the carryings of individual competitors.

Appropriate written waivers of confidentiality from persons supplying the data will be accepted and honored by the Maritime Administration to the extent practicable in the preparation of statistical data and reports under this subpart.

§ 206.4 Charges.

To cover the cost of furnishing statistical data and reports under this subpart, the following charges shall apply:

Computer Metered Minute.....	\$23.49
Programmer/Analyst Man-Hour Regular Time.....	22.80
Statistician/Analyst Man-Hour Regular Time.....	17.35
Reel of Magnetic Tape Created.....	25.00
Computer Printed Page.....	.10
Standard Copier Printed Page.....	.07
Reel of Magnetic Tape Duplicated.....	25.00
All Other Costs (e.g., typing, postage, etc.).....	(1)

¹ Actual.

Part 207 is added to Title 46 to read as follows:

- Sec.
207.1 Purpose.
207.2 Basic statistical data.
207.3 Procedures.

AUTHORITY: Sec. 204(b), Merchant Marine Act, 1936, as amended (46 USC 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).

§ 207.1 Purpose.

The purpose of this part is to identify the basic statistical data and reports required by the Maritime Subsidy Board (Board) in hearings held under section 605(c), Merchant Marine Act, 1936, as amended (Act), in regard to applications for operating-differential subsidy (ODS) under Title VI of the Act and to provide procedures for the production of these data and reports. Statistical data not expressly covered by this part are subject to Subpart A of Part 206 of this subchapter. There shall be no charge for the production of the basic statistical data and reports identified in this part.

§ 207.2 Basic statistical data.

(a) *Data and reports available.* The basic statistical data and reports that will be provided pursuant to § 207.3 of this part in regard to any hearing held by the Board under section 605(c) of the Act in connection with an application for ODS are as follows, with the accompanying "Notes" forming an integral part of each report:

RULES AND REGULATIONS

REPORT 001

19 CENSUS TRADE DATA¹
MSB DOCKETPAGE
DATE PREPARED

Trade Route	Commodity	Commodity Description	INBOUND LINER ²			Value			Percent
			Tonnage	Percent	United States	United States	Foreign	Total	
			United States	Foreign	Total	United States	United States	Foreign	United States

TOTAL TRADE ROUTE BY INBOUND LINER³

(For an explanation of terms and numbers see "Notes")

REPORT 002

19 CENSUS TRADE DATA⁴
MSB DOCKETPAGE
DATE PREPARED

Trade Route	Coastal District	Foreign Country	Commodity	Commodity Description	INBOUND LINER ²			Value			Percent
					Tonnage	Percent	United States	United States	Foreign	Total	
					United States	Foreign	Total	United States	United States	Foreign	United States

TOTAL TRADE ROUTE BY COASTAL DISTRICT BY FOREIGN COUNTRY BY INBOUND LINER⁶TOTAL TRADE ROUTE BY COASTAL DISTRICT BY INBOUND LINER³TOTAL TRADE ROUTE BY INBOUND LINER³

(For an explanation of terms and numbers see "Notes")

REPORT 003

19 MARAD LINER FOREIGN TRADE DATA⁷
MSB DOCKETPAGE
DATE PREPARED

Trade Route	Coastal District	Foreign Country	Flag	INBOUND Tonnage				OUTBOUND Tonnage			
				General	Bulk	Defense	Total	General	Bulk	Defense	Total

TOTAL TRADE ROUTE BY COASTAL DISTRICT BY FOREIGN COUNTRY⁸TOTAL TRADE ROUTE BY COASTAL DISTRICT⁹TOTAL TRADE ROUTE¹⁰

(For explanation of terms and numbers see "Notes")

REPORT 004

19 MARAD CONTAINERIZED FOREIGN TRADE DATA¹¹
MSB DOCKETPAGE
DATE PREPARED

Trade Route	Coastal District	Foreign Country	Flag	INBOUND Tonnage			Number Containers	Cubic Feet	OUTBOUND Tonnage			Number Containers	Cubic Feet
				Commercial	Defense	Total			Commercial	Defense	Total		

TOTAL BY TRADE ROUTE BY COASTAL DISTRICT BY FOREIGN COUNTRY⁸TOTAL BY TRADE ROUTE BY COASTAL DISTRICT⁹TOTAL BY TRADE ROUTE¹⁰

(For an explanation of terms and numbers see "Notes")

REPORT 005

19 MARAD Sailings Foreign Trade Data¹²
MSB DocketPAGE
DATE PREPARED

Trade Route	Flag	SAILINGS ¹³		Total
		Inbound	Outbound	

TOTAL SAILINGS BY TRADE ROUTE¹⁴TOTAL SAILINGS¹⁵

(For an explanation of terms and numbers see "Notes")

NOTES

EXPLANATION OF TERMS

Trade Route—A two digit numerical code signifying a waterborne route between a specific U.S. coastal district(s) and foreign port range.

Commodity—A three digit numerical Statistical Classification of Commodities (SCC) code assigned by the Bureau of the Census to a major category of commodities.

Commodity Description—A literal definition of each three digit numerical (SCC) code.

Value Outbound—The dollar value of commodities at time and place of export. It is based on the selling price (or cost if not sold) and includes inland freight insurance, and other charges to the port of exportation.

Value Inbound—The market dollar value of commodities in the exporting foreign country, and therefore excludes U.S. import duties, freight charges from the foreign country to the United States and insurance.

Tonnage Inbound—The number of long tons (2,240 lbs.) of entries for immediate consumption and entries into customs bonded storage and manufacturing warehouses. Excludes American goods returned by U.S. military forces for their own use and imports arriving on vessels owned and operated by the Department of Defense.

Tonnage Outbound—The number of long tons (2,240 lbs.) of foreign merchandise, including nongovernment shipments, shipments to U.S. civilian government agencies, and government-financed economic assistance shipments under the Foreign Assistance Act. Excluded from the figures are shipments of supplies and equipment to U.S. military forces for their own use, shipments of DOD controlled cargo under foreign aid programs, and all shipments of Special Category commodities (commodities for which detailed information may not be released for security reasons).

Inbound—A vessel movement to the United States from a foreign country.

Outbound—A vessel movement to a foreign country from the United States.

Liner—Type of Service offered on a definite, advertised schedule and giving relatively frequent sailings at regular intervals between specific United States ports or range and designated foreign ports or range.

Non-Liner—Type of Service offered by vessels, other than liner or tanker vessels, that are chartered or otherwise hired for the carriage of goods on special voyages. Sailing schedules are not predetermined or fixed.

Tanker—Type of Service offered by vessels, primarily designed for the carriage of bulk liquid cargoes, which are chartered or otherwise hired for special voyages.

Foreign Country—A three digit numerical code classification as defined by the Bureau of the Census' Schedule C, "Classification of Country Designations", dated January 1, 1972.

Flag—A two digit numerical code signifying the country in which a vessel is registered.

Coastal District—A one digit numerical code depicting a specific United States coastal area as follows:

1. North Atlantic—Maine to Virginia/North Carolina state line.
2. South Atlantic—Virginia/North Carolina state line to Key West, Florida.
3. Gulf—Key West, Florida, to the border of Mexico.
4. California—California.
5. Pacific Northwest—Washington and Oregon.
6. Great Lakes—All U.S. ports on the Great Lakes system.

7. Hawaii—All ports in the Hawaiian Islands.
8. Alaska—All ports in Alaska and the Aleutian Islands.
9. Puerto Rico—Puerto Rico and the Virgin Islands.

Bulk—Commodities customarily loaded and carried without wrappers or containers, and received and delivered without transportation mark or count whether such cargo is handled on berth terms, voyage charter, or any other basis.

General—Miscellaneous commodities packed in boxes, bags, bales, barrels, containers, crates, drums, unboxed or uncrated, accepted and delivered by mark and count.

Defense—Cargo transported for the U.S. Department of Defense, including the Military Sealift Command.

Commercial—Combination of general and bulk cargoes.

Containers—The number of containers represents the total of all containers transported regardless of size or TBU's.

Cubic Feet—The number of cubic feet represents the total cargo contained and transported within containers regardless of the interior cubic capacity of the containers.

EXPLANATION OF NUMBERS

19—Census Trade Data—The data base for this report is the Census Annual Commodity Movements. The report was formerly known as Table 42A.

Inbound Liner—This heading indicates the type of data contained in the report; other headings for the report are:

- Outbound Liner
- Inbound Non-Liner
- Outbound Non-Liner
- Inbound Tanker
- Outbound Tanker

Total Trade Route By Inbound Liner—At the end of the data for each trade route a total is provided for the category; other categories for the report are:

- Total Trade Route By Outbound Liner
- Total Trade Route By Inbound Non-Liner
- Total Trade Route By Outbound Non-Liner
- Total Trade Route By Inbound Tanker
- Total Trade Route By Outbound Tanker

19—Census Trade Data—The data base for this report is the Census Annual Commodity Movements. The report was formerly known as Table 44B.

Total Trade Route By Coastal District By Inbound Liner—At the end of the data for each coastal district a total is provided for the category; other categories for the report are:

- Total Trade Route By Coastal District By Outbound Liner
- Total Trade Route By Coastal District By Inbound Non-Liner
- Total Trade Route By Coastal District By Outbound Non-Liner
- Total Trade Route By Coastal District By Inbound Tanker
- Total Trade Route By Coastal District By Outbound Tanker

Total Trade Route By Coastal District By Foreign Country By Inbound Liner—At the end of the data for each foreign country a total is provided for the category; other categories for the report are:

- Total Trade Route By Coastal District By Foreign Country By Outbound Liner
- Total Trade Route By Coastal District By Foreign Country By Inbound Non-Liner
- Total Trade Route By Coastal District By Foreign Country By Outbound Non-Liner
- Total Trade Route By Coastal District By Foreign Country By Inbound Tanker
- Total Trade Route By Coastal District By Foreign Country By Outbound Tanker

19—MARAD Liner Foreign Trade Data—The data base for this report is the MARAD Foreign Trade System. This System contains liner information only and is collected from MA Forms 721/722.

Total Trade Route By Coastal District By Foreign Country—A total is provided at the end of each foreign country.

Total Trade Route By Coastal District—A total is provided at the end of each coastal district for all foreign countries.

Total Trade Route—A total is provided at the end of each trade route for all coastal districts.

19—MarAd Containerized Foreign Trade Data—The data base for this report is the MarAd Container System. This system contains information collected from MA Forms 578A for any vessel carrying ten or more containers.

19—MarAd Sallings Foreign Trade Data—The data base for this report is the MarAd Foreign Trade System. This system contains liner information only and is collected from MA Forms 721/722.

Sallings—The actual number of "Outbound" and "Inbound" sailings made by vessels of specific flags of registration on a specific trade route is provided. A sailing constitutes an initial entrance to or a final clearance from the United States of a vessel.

Total Sallings By Trade Route—A total is provided at the end of each trade route.

Total Sallings—A total is provided at the end for all trade routes.

(b) Time frame of data and reports provided. The basic statistical data and reports provided by this part will be for the most recent three full calendar years for which such data is available in final form on the date the Board issues its referral order for a hearing on any ODS application. No preliminary data and no data for parts of a calendar year will be provided under this part. Any request for preliminary data or data for any part of a calendar year should be made under Subpart A of Part 206 of this subchapter. Data requested for any calendar year more recent than the three years described in this paragraph should also be made under Subpart A of Part 206 of this subchapter.

(c) Confidentiality. The original sources of basic statistical data furnished under this part are "business confidential" and data shall not be supplied in such form as to permit competitors to extrapolate the data supplied by the original sources to the Maritime Administration and, thereby, determine the carryings of individual competitors. Appropriate written waivers of confidentiality from persons supplying data will be accepted and honored by the Maritime Administration to the extent practicable in the preparation of statistical data and reports under this part.

§ 207.3 Procedures.

(a) Request. The procedures for production of basic statistical data and reports under this part may be initiated only by the written request of a party to a hearing under section 605(c) of the Act in connection with an ODS application. The term "party" includes the applicant, Public Counsel, and any other person whose petition to intervene has

been granted. The request shall identify the specific format of data sought according to the report numbers listed in § 207.2 of this part and shall state the trade routes or trade areas covered by the ODS application and identified by the Board in its section 605(c) notice as published in the FEDERAL REGISTER. The letter requesting data and reports should be addressed to the Chief, Division of Trade Studies and Statistics (Code M-522), Maritime Administration, U.S. Department of Commerce, Room 4075, 14th & E Streets NW., Washington, D.C. 20230. Concurrently, the requesting party shall furnish a copy of the request to the presiding Administrative Law Judge (for inclusion in the correspondence section of the official docket) and to each other party to the hearing.

(b) *Determination of data and reports.* The Chief, Division of Trade Studies and Statistics, shall review and define the basic statistical data and reports applicable to a party's request, with special attention to § 207.2 (c) of this part, and promptly take all necessary steps to effect production. He shall expeditiously notify the requesting party, with a copy to all other parties and to the presiding Administrative Law Judge (for inclusion in the correspondence section of the official docket), as follows: the basic statistical data and reports being produced; and the schedule for distribution thereof to the parties and to the presiding Administrative Law Judge.

(c) *Transmission of data package.* Once the Chief, Division of Trade Studies and Statistics, has assembled the basic statistical data and reports, he shall promptly transmit them to:

- (1) The requesting party (one copy);
- (2) Public Counsel (one copy);
- (3) Each other party (one copy each);

and

(4) The presiding Administrative Law Judge (two copies: one copy of which shall be received into evidence in the hearing docket, pursuant to § 201.132(g) of this subchapter, and the other copy of which shall be for the personal use of the presiding Administrative Law Judge).

(d) *Dispute as to scope of data and reports.* If any party to the hearing disputes the scope of data and reports to be produced as defined in the notice issued by the Chief, Division of Trade Studies and Statistics, review by the Director, Office of Subsidy Administration, may be obtained by such party through filing of a written request for review with the Director, Office of Subsidy Administration. Concurrently, the requesting party shall furnish a copy of the request to the presiding Administrative Law Judge (for inclusion in the correspondence section of the official docket) and to each other party to the hearing. On the basis of the request for review, and such comments as any other party to the hearing may have filed within ten (10) days of the date on the request, the Director, Office of Subsidy Administration, shall determine the proper scope of the basic statistical data and reports to be produced. The determination shall be final.

A copy of the determination shall be furnished to each party and to the presiding Administrative Law Judge (for inclusion in the correspondence section of the official docket).

[FR Doc. 76-33425 Filed 11-12-76; 8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-139; Amdt. 173-101]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Conversion of Individual Exemptions to Regulations of General Applicability

The purpose of these amendments to the Hazardous Materials Regulations of the Department of Transportation is to incorporate, therein, a number of changes based on data and analysis supplied in selected exemption applications, or from existing special permits and exemptions. Adoption of these exemptions into the regulations provides wider access to the benefits of transportation innovations recognized as effective and safe.

On September 13, 1976, the Materials Transportation Bureau published a notice of proposed rulemaking, Docket HM-139; Notice 76-5 (41 FR 38779) which proposed these amendments. The background and the reasons for incorporating these exemptions into the regulations were discussed in that notice. Interested persons were invited to give their views prior to the closing date of October 15, 1976.

The Bureau received a total of sixteen comments on the proposed amendments. Most of the comments were from existing holders of special permits who requested additional amendments to the regulations to eliminate the need for special permits or exemptions not covered by Notice 76-5. Their attention is directed to Docket HM-139, Notice 76-7 (41 FR 43188, September 30, 1976), which proposed a number of other changes to the hazardous materials regulations to obviate the need for special permits or exemptions. The Bureau is presently engaged in a thorough review of all permits and exemptions and anticipates the publication of future notices of proposed rulemaking under Docket HM-139 to eliminate special permits or exemptions when there is clear evidence, based upon shipping experience from existing exemptions or from the safety analysis provided with new exemption applications, that the amendments will result in a level of safety equal to, or greater than, existing regulations, and are suitable for general applicability.

With only two exceptions, all of the comments received were favorable to the amendments as proposed. One commenter pointed out an error in the proposed amendment for the packaging authorized for corrosive liquids, n.o.s. in § 173.245(a)(29). The amendment, as

proposed in Notice 76-5, would have had the effect of limiting the use of MC 303 and MC 304 cargo tanks for phosphoric acid and solutions thereof only. Accordingly, the amendment to § 173.245(a)(29) has been revised to make it clear that only the MC 303 has been limited to the carriage of phosphoric acid and solutions thereof for commodities covered under § 173.245.

Notice 76-5 erroneously indicated a pending renewal action on DOT-E 6941 when in fact no application for exemption was pending. The Bureau's proposal was based on existing DOT-E 6941. The proposal, which would have amended § 173.346(a)(12) to authorize shipment of toluene diisocyanate in MC 304 and MC 307 cargo tanks with bottom outlets equipped with external ball valves in lieu of the required internal shut-off valves, is withdrawn from this rulemaking. Based upon a number of comments received, both favorable and unfavorable, the proposed amendment appears to warrant further study before any such authorization is incorporated into the regulations. Accordingly, DOT-E 6941 will require no action, and the matter of an amendment to the regulations will be reconsidered at a future date.

The following additional changes have been made: (1) The U.S. Coast Guard recommends that the water mode not be authorized for the shipment of ethyl mercaptan in 105A200ALW aluminum tank cars or for vanadium oxytrichloride in MC 310, 311, and 312 cargo tanks. Inasmuch as the water mode was not authorized under the special permits which provide the data to support these rule changes, the Bureau concurs with the USCG recommendation and has excluded water transportation for the rule changes to § 173.141(a)(7) and § 173.247a(a)(3); (2) An error has been corrected for the amendment to § 173.100(p) for the shipment of toy plastic caps in inside plastic packaging. The proposed amendment was to authorize " * * * noncombustible plastic not less than 0.006 inch in thickness." This has been changed to read " * * * combustible plastic not less than 0.006 inch in thickness or a composite blister package consisting of cardboard not less than 0.013 inch in thickness and noncombustible plastic not less than 0.006 inch in thickness."

Analysis of these amendments and comments thereon indicate that the costs of regulatory enforcement will not be significantly affected, nor will additional costs be imposed on the private sector, consumers, or Federal, State, or local governments, since these amendments will authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record or analysis of shipments under the exemptions, identified in Notice 76-5, demonstrate that significant environmental impacts will not result from any of these amendments.

Since these amendments are relaxations of existing rules, and place no additional burden on any person, they are being made effective in less than 30 days

after publication in the FEDERAL REGISTER.

In consideration of the foregoing, 49 CFR Part 173 is amended as follows:

In § 173.66, paragraph (c) is revised to read as follows:

§ 173.66 **Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse, and electric blasting caps.**

(c) Blasting caps containing not to exceed 50 grains of explosive composition each must be placed in strong interior containers, in which they must fit snugly. When caps are loaded vertically in interior metal containers, they must be covered by suitable elastic material placed over the caps. Not more than 100 such blasting caps may be packed in a single container. All inside containers must then be packed snugly in polyethylene plastic bags which are not subject to static generation, cartons or wrappings made of paper or pasteboard.

2. In § 173.68, paragraph (a) (1) is revised to read as follows:

§ 173.68 **Detonating primers.**

(1) Specification 14, 15A, or 16A (§§ 178.165, 178.168, 178.185 of this subchapter). Wooden boxes (see § 173.67(a) (1) Note 1) or Specification 12H, 32F, or 23H (§§ 178.209, 178.214, 178.219 of this subchapter), fiberboard boxes, with inside containers which must be either polyethylene plastic bags not subject to static generation containing not more than 50 primers each or pasteboard cartons containing not more than 50 primers each, or pasteboard or plastic tube enclosing each primer with wires or pasteboard, wooden, metal or plastic tubes or spools with wires wrapped around the tube or spool. Gross weight of wooden boxes containing pasteboard cartons must not exceed 150 pounds, except for export shipment. Gross weight of wooden boxes containing pasteboard or plastic tube enclosing each primer with wires, or pasteboard, wooden, metal, or plastic tubes or spools with the wires wrapped around the tube or spool must not exceed 75 pounds.

3. In § 173.100, paragraph (p) is revised to read as follows:

§ 173.100 **Definition of Class C explosives.**

(p) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps, must not contain more than an average of twenty-five hundredths of a grain of explosive composition per cap and must be packed in inside packages constructed of cardboard not less than 0.013 inch in thickness, metal not less than 0.008-inch in thickness, noncombustible plastic not less than 0.015 inch in thickness, or a composite blister package consisting of cardboard not less than 0.013 inch in thickness and noncombustible plastic not less than

0.006 inch in thickness, which shall provide a complete enclosure and the minimum dimensions of each side or end of such package shall be not less than 1/4 inch in height. Unless greater weight of composition is approved by the Bureau of Explosives, the number of caps in these inside packages shall be limited so that not more than 10 grains of explosive composition shall be packed into one cubic inch of space and not exceeding 17.5 grains of the explosive composition of toy caps shall be packed in any inside container. These inner containers must be packed in outside containers as specified in § 173.109.

4. In § 173.119, paragraph (m) (5) is revised to read as follows:

§ 173.119 **Flammable liquids not specifically provided for.**

(m) * * *

(5) Specification 37P (§ 178.133 of this subchapter). Steel drums, not over 15 gallons capacity, with polyethylene liner (non-reusable container). Drums exceeding one gallon capacity must be constructed of at least 24-gauge metal. Authorized only for materials that will not react with polyethylene and result in container failure. Not authorized for transportation by air.

5. In § 173.141, paragraph (a) (7) is revised to read as follows:

§ 173.141 **Amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan mixtures.**

(a) * * *

(7) Specification 103W, 105A100, 105A100W, 105A200ALW, 106A500X, 110A500W, 111A60F1, 111A60W1, 112A200W, 112A400F, or 114A340W (§§ 179.100, 179.101, 179.200, 179.201 of this subchapter). Tank cars. Specifications 103W, 111A60F1, 111A60W1, and 114A340W tank cars must not be equipped with any bottom outlet. Bottom washout permitted. Specification 105A200ALW is authorized for ethyl mercaptan only and is not authorized for transportation by water.

6. In § 173.145, paragraph (a) (7) is revised to read as follows:

§ 173.145 **Dimethylhydrazine, unsymmetrical, and methylhydrazine.**

(a) * * *

(7) Specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, or MC 312 (§§ 178.341, 178.342, 178.343 of this subchapter). Tank motor vehicle without bottom discharge outlets and equipped with steel safety valves of approved design.

7. In § 173.208, paragraph (a) (2) is added to read as follows:

§ 173.208 **Titanium metal powder, wet or dry.**

(a) * * *

(2) Titanium metal powder, wet, with not less than 50 percent water by weight

may be packed in any full removable head drum specified in § 173.154.

8. In § 173.245, paragraphs (a) (29) and (a) (31) are revised to read as follows:

§ 173.245 **Corrosive liquids not specifically provided for.**

(a) * * *

(29) Specification MC 303 or MC 304. Tank motor vehicle meeting § 178.343-2(c) of this subchapter. Specification MC 303 must have tanks fabricated from 12-gauge, Type 316 stainless steel. MC 303 is authorized only for phosphoric acid and solutions thereof.

(31) Specification MC 306, MC 310, MC 311, or MC 312 (§§ 178.340, 178.341, 178.343 of this subchapter). Tank motor vehicles. If cargo tank is constructed with bottom outlets, they must meet § 178.343-5 of this subchapter. Specification MC 306 must have tanks fabricated from 12 gauge, Type 316 stainless steel. MC 306 is authorized only for phosphoric acid and solutions thereof.

9. In § 173.247a, paragraph (a) (3) is added to read as follows:

§ 173.247a **Vanadium tetrachloride and vanadium oxytrichloride.**

(a) * * *

(3) Specification MC 310, MC 311, or MC 312 (§§ 178.340, 178.343 of this subchapter). Tank motor vehicles. Authorized only for vanadium oxytrichloride blanketed by an inert non-soluble gas. Not authorized for transportation by water.

10. In § 173.262, paragraph (a) (12) is added to read as follows:

§ 173.262 **Hydrobromic acid.**

(a) * * *

(12) Specification 37M (§ 178.134 of this subchapter) (non-reusable) cylindrical steel overpack with inside Specification 2SL (§ 178.35a of this subchapter) polyethylene container. Overpack must have rolled hoops and be constructed of 20-gauge body and 18-gauge head.

11. In § 173.263, paragraphs (a) (15) and (a) (17) are revised to read as follows:

§ 173.263 **Hydrochloric (muriatic) acid; hydrochloric (muriatic) acid, mixtures, hydrochloric (muriatic) acid solution, inhibited; sodium chlorite solution (not exceeding 42 percent sodium chlorite); and cleaning compounds, liquid, containing hydrochloric (muriatic) acid.**

(a) * * *

(15) Specification 12A or 12B (§§ 178.210, 178.205 of this subchapter). Fiberboard boxes with inside containers of polyethylene, or other nonfragile plastic material resistant to the lading (bags are not authorized, not over 1-gallon capacity each, or not more than one of 3-gallon capacity, suitably cushioned to

prevent movement within the box. Gross weight of completed package must not exceed 65 pounds.

(17) Specification 6D or 37M (non-reusable container) (§§ 178.102, 178.134 of this subchapter). Cylindrical steel overpacks with inside Specifications 2S, 2SL, 2T, 2TL, or 2U (§§ 178.35, 178.35a, 178.21, 178.27, 178.24 of this subchapter) polyethylene container.

12. In § 173.266, paragraph (b) (9) is added to read as follows:

§ 173.266 Hydrogen peroxide solution in water.

(b) * * *

(9) Specification 37P (§ 178.133 of this subchapter). Steel drums, not over 15-gallon capacity, with inside Specification 2U (§ 178.24 of this subchapter) polyethylene containers having a minimum thickness of 0.015 mil. The closure of the inside 2U container must be vented to prevent accumulation of internal pressure and the head with the closure must be marked "KEEP THIS END UP" or "KEEP PLUG UP TO PREVENT SPILLAGE".

13. In § 173.271, paragraph (a) (11) is revised to read as follows:

§ 173.271 Phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

(a) * * *

(11) Specification 103A, 103AW, 103CW, 111A60W2, or 111A100F2 (§§ 179.200, 179.201 of this subchapter). Tank cars. Specification 103CW must be fabricated from Type 430 stainless steel. Authorized for phosphorus trichloride only.

14. In § 173.272, paragraphs (g) and (i) (6) are revised to read as follows:

§ 173.272 Sulfuric acid.

(g) Sulfuric acid concentration of greater than 95 percent to not over 100.5 percent: Authorized packaging is described in subparagraphs (1) through (4), (6), and (14) through (22) of paragraph (i) of this section.

(i) * * *

(6) Specification 6D or 37M (non-reusable container) (§§ 178.102, 178.134 of this subchapter). Cylindrical steel overpacks with an inside specification 2S, 2SL, or 2T (§§ 178.35, 178.35a, 178.21 of this subchapter) polyethylene container. Overpack of 30-gallon capacity must be constructed of at least 16-gauge steel throughout when used for sulfuric acid of 93 percent or greater concentration.

15. In § 173.277, paragraph (a) (7) is added to read as follows:

§ 173.277 Hypochlorite solutions.

(a) * * *

(7) Specification 21P (§ 178.225 of this subchapter). Fiber drum overpack with inside Specifications 2S, 2SL, 2T, or 2U (§§ 178.35, 178.35a, 178.21, 178.24 of this subchapter) polyethylene container. Authorized for not over 16 percent sodium hypochlorite solutions only.

16. In § 173.299, paragraph (a) (2) is revised to read as follows:

§ 173.299 Etching acid liquid, n.o.s.

(a) * * *

(2) Specification 6D or 37M (non-reusable) (§§ 178.102, 178.134 of this subchapter). Cylindrical steel overpack with inside Specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene container not over 55-gallon capacity. Specification 37M overpack of over 30-gallon capacity must be constructed of at least 20-gauge steel throughout.

17. In § 173.306, paragraph (e) (1) (i) is revised to read as follows:

§ 173.306 Limited quantities of compressed gases.

(e) * * *

(1) * * *

(i) Each pressure vessel may not contain more than 5,000 pounds of Group I refrigerant as classified in American National Standard B9.1 or not more than 50 pounds of refrigerant other than Group I.

18. In § 173.336, paragraph (a) (3) is revised to read as follows:

§ 173.336 Nitrogen dioxide, liquid; nitrogen peroxide, liquid; and nitrogen tetroxide, liquid.

(a) * * *

(3) Specification 106A500X (§§ 179.300, 179.301 of this subchapter) tanks. Each tank must be equipped with gas tight valve protection caps which must be approved by the Bureau of Explosives or all valve openings made gas tight by the use of screw plug or screw caps. Tanks must not be equipped with safety devices of any type. Outage must be sufficient to prevent tanks from becoming liquid full at 130° F. (55° C.). (See §§ 174.200 and 177.834(m) of this subchapter for special requirements for rail and highway shipments.)

19. In § 173.364, paragraph (a) (2) is revised to read as follows:

§ 173.364 Limited quantities of Poison B solids.

(a) * * *

(2) In inside plastic bottles or jars, chipboard, pasteboard or fiber cartons, cans, or boxes, of not over 5 pounds capacity each, packed in outside fiberboard or wooden boxes. Not more than

6 of these cartons shall be packed in any outside container.

20. In § 173.373, paragraph (a) (5) is added to read as follows:

§ 173.373 Ortho-nitroaniline and para-nitroaniline.

(a) * * *

(5) Specification 56 (§ 178.252 of this subchapter). Metal portable tank. Authorized for para-nitroaniline only. For rail transportation see § 174.63 of this subchapter.

Effective date: This amendment takes effect November 15, 1976.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e)).

The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on November 9, 1976.

JAMES T. CURTIS, JR.,

Director,

Materials Transportation Bureau.

[FR Doc. 76-33488 Filed 11-12-76; 8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF AGRICULTURE

PART 16—LIMITATION ON IMPORTS OF MEAT

Subpart—Meat Import Law Regulations

MEAT PROCESSED IN FOREIGN TRADE ZONES AND TERRITORIES OF THE UNITED STATES

Correction

In FR Doc. 76-31541 appearing at page 47254 in the issue for Thursday, October 28, 1976, in the third column, the sentence before the signature of "John A. Knebel", should read "issued at Washington, D.C. this 20th day of October 1976".

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 966—TOMATOES GROWN IN FLORIDA

Amendment No. 1 to Handling Regulation

This amendment, designed to continue orderly marketing of Florida tomatoes, extends through June 18, 1977, the minimum grade, size, pack, container, marking and inspection requirements effective October 17 through November 17, 1976 (41 FR 43909) on fresh shipments of Florida tomatoes to keep undesirable ones from being shipped to consumers.

Notice of rule making with respect to a proposed Amendment No. 1 to the handling regulation, to be effective under

Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966) regulating the handling of tomatoes grown in the production area, was published in the October 21, 1976, FEDERAL REGISTER (41 FR 46452). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons through November 5, 1976, to file written data, views or arguments pertaining to that proposal. None was filed.

The recommendations of the committee reflect its appraisal of the composition of the 1976-77 crop of Florida tomatoes and the marketing prospects for this season. The amendment will extend the current regulation which is similar to those issued during past seasons. The grade and size requirements are necessary to prevent tomatoes of lower quality and undesirable sizes from being distributed in fresh market channels. Such tomatoes are usually of negligible economic value to producers. This will provide consumers with tomatoes of good quality and size throughout the season consistent with the overall quality of the crop. The requirements for containers, container net weights, and size classifications are intended to standardize shipments in the interest of orderly marketing and to improve returns to growers.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable. Shipments are allowed to certain special purpose outlets without regard to minimum grade, size, container or inspection requirements provided that safeguards are used to prevent such tomatoes from reaching unauthorized outlets. Tomatoes for canning are exempt under the legislative authority for this part. Since no purpose would be served by regulating tomatoes used for relief or charity purposes such shipments are also exempt. Because export requirements differ materially, on occasion, from domestic market requirements such shipments are exempt. The following types of tomatoes are exempt from these regulations: elongated types commonly referred to as pear shaped or paste tomatoes, cerasiform type tomatoes commonly referred to as cherry tomatoes, hydroponic tomatoes and greenhouse tomatoes. Such types are generally of good quality, readily identifiable either by their distinctive shapes or container markings and usually comprise a very small part of the total crop. Tomatoes marketed within the regulated area are unregulated because of an increase in the U-pick type of harvest in Florida production areas close to urban areas and resulting difficulty in obtaining compliance with regulations. The minimum quantity exemption will permit persons to handle up to 60 pounds of tomatoes per day without regard to the requirements of this part. This will reduce the problem of enforcement on small shipments of essentially noncommercial nature. The requirements concerning spe-

cial pack shipments are intended to help handlers in the production area compete on an equal basis with those outside the area by not requiring reinspection of previously inspected and certified tomatoes when repacked in consumer size packages.

After consideration of all relevant matters presented, including the above proposal recommended by the Florida Tomato Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that the amendment, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that shipments of 1976-77 crop tomatoes grown in the production area have begun and the amendment should become effective at the time herein provided to maximize the benefits to producers. The Florida Tomato Committee held an open meeting on September 17, 1976, to consider recommendations for a handling regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; information regarding the provisions of the recommendation by the committee has been disseminated among the growers and handlers of tomatoes in the production area; and compliance with this section should not require any special preparation on the part of handlers subject thereto which cannot be completed by such effective date.

The amended regulation is as follows:

§ 966.315 Handling regulation.

During the period November 18, 1976, through June 18, 1977, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) or are exempted by paragraphs (b) or (d).

(a) *Grade, size, container and inspection requirements.* (1) *Grade.*—Tomatoes shall be graded and meet the requirements specified in either § 51.1855 U.S. No. 1, § 51.1856 U.S. Combination, § 51.1857 U.S. No. 2 or § 51.1858 U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes, or when not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than one percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U. S. No. 1 grade.

(2) *Size.*—(i) Tomatoes shall be at least 2 4/32 inches in diameter and be sized in accordance with § 51.1859 of the U.S. tomato standards.

(ii) Tomatoes of designated sizes may not be commingled unless they are over

2 17/32 inches in diameter and each container shall be marked to indicate the designated size.

(iii) Only the generic terms as defined in § 51.1859 may be used to indicate size designations on containers of tomatoes; except that the following abbreviations may be used—SML for small, MED for medium, LG for large, EX LG for extra large, or MAX LG for maximum large.

(3) *Containers.*—(i) Tomatoes shall be packed in containers of 20, 30 or 40 pounds designated net weights and comply with the requirements of § 51.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (1/4) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains or other evidence of previous use, the lid of such container shall be marked with the words "USED BOX" in letters not less than three-fourths (3/4) inch high.

(4) *Inspection.*—Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Registered handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a Certificate of Privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within ten days after shipment shall be cause for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.* (1) *For types.*—The following types of tomatoes are exempt from these regulations: Elongated types

Commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties, cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.*—For purpose of these regulations each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of these regulations but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.*—Tomatoes resorted, regraded and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from the tomato grade classifications of paragraph (a)(1) and the size classifications of paragraph (a)(2) except that tomatoes shall be at least 2 1/2 inches in diameter and the container weight requirements of paragraph (a)(3) if such tomatoes comply with the inspection requirements of paragraph (a)(4).

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting, and repacking tomatoes into consumer sized packages and has been certified as such by the committee. "U.S. tomato standards" means the revised United States Standards for Grades of Fresh Tomatoes (§§ 51.1855-51.1877), effective December 1, 1973, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: November 11, 1976, to become effective November 18, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and
Vegetable Division, Agricultural
Marketing Service.

[FR Doc.76-33832 Filed 11-12-76; 8:45 am]

PART 980—VEGETABLES: IMPORT REGULATIONS: TOMATOES

Grade, Size, and Inspection Requirements

Findings. (a) Notice of rule making regarding these requirements to be made effective under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e-1), was published in the October 21, 1976, FEDERAL REGISTER (41 FR 46454). The notice

afforded interested persons an opportunity to file data, views, or arguments in regard thereto not later than November 5, 1976. None was filed.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that the proposal as published in the notice should be made effective, and that the minimum grade, size, and inspection requirements are the same as those in effect under Marketing Order No. 966, as amended (7 CFR Part 966), for shipments of tomatoes grown in the Florida production area. This regulation is subject to amendment with reasonable notice.

(b) It is hereby further found that good cause exists for not postponing the effective date of this regulation beyond the time specified (5 U.S.C. 553) in that (1) the requirements established by this regulation are mandatory under Section 8e of the Act; (2) notice of the proposed regulation was given by publication in the FEDERAL REGISTER of October 21, 1976; (3) in fixing the effective date hereof consideration was given to the time required for transportation of the tomatoes and entry into the United States; and (4) such notice is in excess of the three day minimum required by the act.

The amendment is as follows:
§ 980.211 Tomato import regulation.

Except as otherwise provided, during the period November 18, 1976, through June 18, 1977, no person may import fresh tomatoes, except pear shaped, cherry, hydroponic and greenhouse tomatoes as defined herein, unless they are inspected and meet the requirements of this section.

(a) *Minimum grade and size requirements.* (1) At least U.S. No. 3 grade and at least 2 4/32 inches in diameter;

(2) Not more than 10 percent, by count, in any lot may be smaller than the specified minimum diameter.

(b) *Minimum quantity exemption.* Any importation which in the aggregate does not exceed 60 pounds may be imported without regard to the provisions of this section.

(c) *Plant quarantine.* Provisions of this section shall not supersede the restrictions or prohibitions on tomatoes under the Plant Quarantine Act of 1912.

(d) *Designation of Governmental inspection service.* The Federal or the Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality and maturity of tomatoes that are imported into the United States under the provisions of Section 8e of the act.

(e) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the tomatoes meet the United States import requirements

for tomatoes under Section 8e (7 U.S.C. 608e-1), issued by a designated governmental inspection service and applicable to a specified lot is required on all imports of fresh tomatoes.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (Part 51 of this title). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the tomatoes will be imported.

Ports	Office	Advance notice (in days)
All Texas points.	L. M. Denbo, P.O. Box 107, San Juan, Tex. 78589. (Phone 512-787-4091 or 6881.)	1
All Arizona points.	Charles R. Everette, P.O. Box 1614, Nogales, Ariz. 85621. (Phone 602-287-2902.)	1
All California points.	D. P. Thompson, 784 South Central Ave., Room 260, Los Angeles, Calif. 90021. (Phone 213-688-2489.)	3
All Hawaii points.	Stevenson Ching, P.O. Box 22159, Pawaia Substation, 1428 South King St., Honolulu, Hawaii 96822. (Phone 808-941-3071.)	1
All Puerto Rico points.	John L. Coulon, P.O. Box 2112, Santurce, Puerto Rico 00908. (Phone 809-782-2230 or 4116.)	2
New York City.	Carmine J. Cavallo, Room 28A Hunts Point Market, Bronx, N.Y. 10474. (Phone 212-991-7669 or 7668.)	1
New Orleans.	Leonard E. Mixon, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113. (Phone 504-589-6741 or 6742.)	1
Miami.	Bennie C. Tiner, 1350 Northwest 12th Ave., Room 530, Miami, Fla. 33136. (Phone 305-324-6116 or 6117.)	1
All other Florida points.	C. B. Brantley, P.O. Box 1232, Winter Haven, Fla. 33880. (Phone 813-294-3511, Extension 33.)	1
All other points.	M. A. Castille, Fruit and Vegetable Division, AMS, Washington, D.C. 20250. (Phone 202-447-5870.)	3

(4) Inspection certificates shall cover only the quantity of tomatoes that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certificate issued with respect to any tomatoes to be imported into the United States shall set forth, among other things:

- (i) The date and place of inspection;
- (ii) The name of the shipper, or applicant;

- (iii) The commodity inspected;
- (iv) The quantity of the commodity covered by the certificate;
- (v) The principal identifying marks on the containers;
- (vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and
- (vii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e-1.

(f) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of tomatoes for the purpose of making it eligible for importation.

(g) *Definitions.* For the purpose of this section, "Importation" means release from custody of the United States Bureau of Customs. "Cherry tomatoes" means cerasiform types commonly referred to as "cherry tomatoes." "Pear shaped tomatoes" means elongated types, commonly referred to as pear shaped or paste tomatoes and include San Marzano, Red Top and Roma varieties. "Hydroponic tomatoes" means tomatoes grown in solution without soil. "Greenhouse tomatoes" means tomatoes grown indoors. The terms relating to grade and size, as used herein, shall have the same meaning as when used in the U.S. Standards for Grades of Fresh Tomatoes (§§ 51.1855-51.1877 of this title).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated November 11, 1976, to become effective November 18, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-33833 Filed 11-12-76;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHa Instruction 442.1]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Community Facility Loans

Section 1823.42(k) of Subpart A of Part 1823 of Chapter XVIII, Title 7, Code of Federal Regulations (38 FR 29026) is amended. The purpose of this amendment is to amend requirements for furnishing final title opinion by authorizing approval by the Administrator for a qualified final opinion of the Bond Counsel pending litigation pertaining to Indian claims that may affect title to land or validity of the obligation. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553. This amendment, however, is not being published as proposed rulemaking since it provides a method to avoid lengthy delay in issuance of bonds caused by possible protracted litigation. Such delay is detrimental to concerned parties and contrary to the public interest.

Interested persons are invited, however, to submit written suggestions or objections regarding this amendment to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before December 15, 1976. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. All written

submissions pursuant to this notice will be made available for public inspection in the office of the Chief, Directives Management Branch during regular business hours (8:15 a.m.-4:45 p.m.)

As amended, § 1823.42(k) reads as follows:

§ 1823.42 Bond transcript documents.

(k) Preliminary approving opinion, if any, and final unqualified approving opinion of recognized Bond Counsel including opinion regarding interest on bonds being exempt from Federal and any State income taxes. On approval of the Administrator, a final opinion may be qualified to the extent that litigation is pending relating to Indian claims that may affect title to land or validity of the obligation. It is permissible for such opinions to contain language referring to the last sentence of section 306(a)(1) or to section 309 A (h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 (a) (1) or 1929 a (h)), and providing that if the bonds evidencing the indebtedness in question are acquired by the Federal Government and sold on an insured basis from the Agricultural Credit Insurance Fund, or the Rural Development Insurance Fund, the interest on such bonds will be included in gross income for the purposes of the Federal income tax statutes.

(7 U.S.C. 1989, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Effective date. This amendment shall become effective November 15, 1976.

Dated: October 10, 1976.

FRANK W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.76-33514 Filed 11-12-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 26]

PROPOSED REVISIONS OF GRADE DESIGNATIONS FOR ALL GRAINS

The United States Grain Standards Act, as amended (82 Stat. 761, 7 U.S.C. 71 et seq.) provides for official U.S. standards to designate the levels of quality of grain for use by producers, merchandisers, and consumers in the domestic and export marketing of grain. The Act provides for an official grading service upon request and payment by the applicant of a fee to cover the cost of the service.

Pursuant to section 4 of the Act, as amended (7 U.S.C. 76), notice is hereby given according to the administrative procedure provisions of section 553 of Title 5, United States Code, that the Department of Agriculture has under consideration proposed revisions of the United States Standards for Grain to provide for optional grade designations for all grains.

Statement of considerations. All grain for export that is sold by grade in the United States is inspected under mandatory provisions of the U.S. Grain Standards Act and the regulations thereunder. Domestic grain is inspected on a voluntary basis upon request. Domestic and export sales contracts generally specify the minimum quality of grain to be delivered under the contracts. At times, sellers find when preparing to load grain for shipment that the supply of a particular quality of grain in their elevator may be insufficient to meet the grade requirements specified in the contract being filled. When this happens, the seller or shipper may find it necessary to substitute grain of a higher quality than that specified in the contract in order to provide the quantity of grain required by the contract.

Certain segments of the grain export industry have stated that provisions of the regulations under the Act give only partial flexibility to exporters and that unlimited substitution of grain of quality higher than the quality specified under the sales contracts should be permitted. They also have stated, and the Department concurs, that delivery of grain of a higher quality than that specified in sales contracts should not be objectionable or considered—as in some cases—as not meeting the contract requirements.

After analyzing the likely impact of the proposal on marketing channel participants and considering the above statements and similar suggestions obtained from various members of the

grain industry, the Department proposes to amend the United States Standards for Grain. The proposed amendment would permit the applicant for inspection services the option of having the quality of the grain offered for inspection officially certified in one of two ways: Option 1—That the lot offered for inspection is of a specific official U.S. grade, or Option 2—that the quality of the lot offered for inspection is equal to or better (superior) in quality, as defined by the official U.S. Standards, than the grade specified by the contract; i.e., U.S. No. 2 or better, U.S. No. 3 or better, etc. The optional certification would be applicable to all numerical and sample grades, dockage, and special grades of grain and to both domestic and export shipments, with no limitation on the amount of better-quality grain that may be delivered if the Option 2 inspection certification is not requested, Option 1 certification will automatically be followed.

The request for the Option 2 certification designation shall be made in writing prior to the beginning of loading. For example, a request for Option 2 certification of U.S. No. 3 or better Yellow Corn would be certificated as follows:

1. "U.S. No. 3 or better Yellow Corn" would be stated on the grade line of the certificate.

2. The weighted average of the factors would be shown on the certificate.

3. No qualifying statement about the lot uniformity would be necessary, provided that the lot meets the uniform loading requirements for a "U.S. No. 3 or better" load order grade.

If the Option 2 certification is not requested and the weighted average of the factor results shows the average grade to be of better quality than that specified in the load order grade but does not meet the uniform loading requirements (Plan A or 10 percent Plan as outlined in GR Instruction 918-6, Grain Inspection Manual) for the average grade, the certificate shall carry a qualifying statement in the remarks. For example, the applicant for inspection stated that the load order grade was for U.S. No. 3 Yellow Corn. The weighted average of the sublots showed the lot to average U.S. No. 2. However, a review of the loading shows that the lot contained 12 percent of U.S. No. 3 and would not meet the uniform loading requirement under the 10 percent Plan for U.S. No. 2 Yellow Corn. The certification would be as follows:

1. "U.S. No. 2 Yellow Corn" would be stated on the grade line of the certificate.

2. The weighted average of the factors would be shown on the certificate.

3. In the "Remarks" section of the certificate, a qualified statement shall be made and substantially state, "The above numerical grade is based on the average quality of the lot and does not meet the uniform loading requirements for a contract of U.S. No. 2 Yellow Corn, but it does meet the requirements for U.S. No. 3 Yellow Corn." This statement shall be followed by a list of the approximate quantity and stowage of the different grades of grain which comprise the lot.

Under the proposal, CFR Part 26 would be amended as follows:

BARLEY

1. Section 26.209 is added as set forth below:

§ 26.209 Grade designations.

(a) *Grade designations for barley.* The grade designation for barley shall include, in the following order: (1) The letters "U.S."; (2) The number of the grade or the words "Sample grade"; (3) The special grade "Bright," if applicable (see § 26.211); (4) The name of the applicable subclass or, in the case of the class barley, the name of the class; (5) The name of each applicable special grade (see § 26.211); (6) When applicable, the word "dockage" together with the percentage thereof; and (7) For malting barley, the words "Plump Barley" together with the applicable percentage range. If requested by the applicant, the grade designation for the class Barley shall include, following the word "Barley," the approximate percentage of each class and of black barley in the mixture in order of predominance.

(b) *Optional grade designations.* Barley may be certificated (under certain conditions,¹) when supported by official analysis, as "U.S. No. 2 or better Barley," "U.S. No. 3 or better Barley," etc. The optional grade designation for barley shall include the name of the applicable class or subclass immediately preceding the word "barley" in the grade designation. The special grade designations and dockage, when applicable, also shall be included (under certain conditions¹) in the certification.

OATS

2. Section 26.257 is revised to read as follows:

¹ The conditions are listed in the Grain Inspection Manual, GR Instruction 918-6. Copies may be obtained from the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

§ 26.257 Grade designations.

(a) *Grade designations for oats.* The grade designations for oats shall include, in the following order: (1) The letters "U.S."; (2) The number of the grade or the words "Sample grade"; (3) Certain special grade designations, if applicable (see § 26.259); (4) The word "oats"; and (5) Certain special grade designations, if applicable (see § 26.259).

(b) *Optional grade designations.* Oats may be certificated (under certain conditions¹), when supported by official analysis, as "U.S. No. 2 or better Oats," "No. 3 or better Oats," etc. The special grade designations, when applicable, also shall be included (under certain conditions¹) in the certification.

WHEAT

3. Section 26.307 is revised to read as follows:

§ 26.307 Grade designations.

(a) *Grade designations for wheat.* (See also § 26.308.)

The grade designations for wheat shall include in the following order: (1) The letters "U.S."; (2) The number of the grade or the words "Sample grade"; (3) The subclass, or in the case of Hard Red Winter Wheat, Mixed Wheat, Soft Red Winter Wheat, and Unclassed Wheat, the class; (4) Each applicable special grade (see also § 26.309); and (5) When applicable, the word "dockage" together with the percentage thereof. In the case of Western White Wheat, there shall be included under "Remarks" on the inspection certificate, the name and percentage of white club wheat and other white wheat in the mixture. In the case of Mixed Wheat, there shall be included under "Remarks" on the inspection certificate the name and percentage of the classes that comprise the mixture.

(b) *Optional grade designations.* Wheat may be certificated (under certain conditions¹), when supported by official analysis, as "U.S. No. 2 or better Wheat," "U.S. No. 3 or better Wheat," etc. The optional grade designations for wheat shall include the name of the applicable class or subclass immediately preceding the word "wheat" in the grade designation. The special grade designations and dockage, when applicable, also shall be included (under certain conditions¹) in the certification.

CORN

4. Section 26.353 is amended by revising paragraphs (c) and (d) as set forth below:

§ 26.353 Grades, grade requirements, and grade designations.

- (a) * * *
- (b) * * *

(c) *Optional grade designations.* Corn may be certificated (under certain conditions¹), when supported by official analysis, as "U.S. No. 2 or better Corn," "U.S. No. 3 or better Corn," etc. The optional grade designations for corn shall include the name of the applicable class immediately preceding the word "corn"

in the grade designation. The special grade designations, when applicable, also shall be included (under certain conditions¹) in the certification.

(d) *Special Grades for Corn—Special grades, special grade requirements, and special grade designations for corn.*

RYE

5. Section 26.402 is amended by adding paragraph (c) as set forth below:

§ 26.402 Grades, grade requirements, and grade designations.

- (a) * * *
- (b) * * *

(c) *Optional grade designations.* Rye may be certificated (under certain conditions¹), when supported by official analysis, as "U.S. No. 2 or better Rye," "U.S. No. 3 or better Rye," etc. The special grade designation and dockage, when applicable, also shall be included (under certain conditions¹) in the certification.

MIXED GRAIN

6. Section 26.453 is amended by revising paragraph (c) and adding paragraph (d) as set forth below:

§ 26.453 Grades, grade requirements, and grade designations.

- (a) * * *
- (b) * * *

(c) *Optional grade designations.* Mixed grain may be certificated (under certain conditions¹), when supported by official analysis, as "U.S. No. 2 or better Mixed Feed Oats," "U.S. Sample Grade or better Mixed Grain," etc. The special grade designations, when applicable, also shall be included (under certain conditions¹) in the certification.

(d) *Special Grades for Mixed Grain—Special grades, special grade requirements, and special grade designations for mixed grain.*

FLAXSEED

7. Section 26.514 is revised as set forth below:

§ 26.514 Grade designations.

(a) *Grade designations for flaxseed.* The grade designation for flaxseed shall include, in the following order: (1) The letters "U.S."; (2) The number of the grade or the words "Sample grade"; (3) The word "flaxseed"; and (5) When applicable, the word "dockage" together with the percentage thereof.

(b) *Optional grade designations.* Flaxseed may be certificated (under certain conditions¹), when supported by official analysis, as "U.S. No. 2 or better Flaxseed." Dockage, when applicable, also shall be included (under certain conditions¹) in the certification.

SORGHUM

8. Section 26.558 is revised as set forth below:

§ 26.558 Grade designations.

(a) *Grade designations for sorghum.* The grade designations for sorghum shall

include in the following order: (1) The letters "U.S."; (2) The number of the grade or the words "Sample grade"; (3) The class; (4) Each applicable special grade (see § 26.560), and (5) When applicable, the words "dockage" together with the percentage thereof. The grade designation for the class "Mixed Sorghum" shall include, following the words "Mixed Sorghum," the approximate percentage of each class of sorghum in the mixture in the order of predominance.

(b) *Optional grade designations.* Sorghum may be certificated (under certain conditions¹), when supported by official analysis, as "U.S. No. 2 or better Sorghum," "U.S. No. 3 or better Sorghum," etc. The optional grade designation for sorghum shall include the name of the applicable class immediately preceding the word "sorghum" in the grade designation. The special grade designations and dockage, when applicable, also shall be included (under certain conditions¹) in the certification.

SOYBEANS

9. Section 26.203 is amended by revising paragraph (c) and adding paragraph (d) as set forth below:

§ 26.603 Grades, grade requirements, and grade designations.

- (a) * * *
- (b) * * *

(c) *Optional grade designations.* Soybeans may be certificated (under certain conditions¹), when supported by official analysis, as "U.S. No. 2 or better Soybeans," "U.S. No. 3 or better Soybeans," etc. The optional grade designation for soybeans shall include the name of the class immediately preceding the word "soybeans" in the grade designation. The special grade designations, when applicable, also shall be included (under certain conditions¹) in the certification.

(d) *Special grades of soybeans—Special grades, special grade requirements, and special grade designations for soybeans.*

Comments and effective date. The United States Grain Standards Act, as amended, requires that public notice shall be given on any amendment of the standards and that no changes shall become effective less than 1 year after promulgation thereof, unless, in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.

Public hearings on the proposed revision will not be held; but all persons who desire to submit written data, views, or arguments on this proposal should file them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than December 30, 1976. All comments so filed will be available for public inspection during official hours of business (7 CFR 1.27 (b)). Consideration will be given to all written comments filed with the Hearing Clerk and to all other information available to the Department of

Agriculture in arriving at a decision on the proposed revision of the grade designations for all grains.

Copies of the current grain standards may be obtained from the Director, Grain Division, Agricultural Marketing Service, Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250, or from any field office of the Grain Division.

Done at Washington, D.C., on: November 10, 1976.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc. 76-33645 Filed 11-12-76; 8:45 am]

[7 CFR Part 1205]

[Docket No. CRPA-2]

COTTON RESEARCH AND PROMOTION

Recommended Decision and Opportunity to File Written Exceptions To Proposed Amendment of Cotton Research and Promotion Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed amendment of the Cotton Research and Promotion Order (7 CFR Part 1205) to provide for an additional cotton research and promotion assessment and reimbursement to United States Department of Agriculture for referendum and administrative expenses, hereinafter referred to collectively as the "Order".

Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250 by November 24, 1976. Since an extensive public hearing was held during the period September 20-30, 1976, and the subject matter has since been widely publicized among interested parties, the date of November 24 provides a reasonable period of time for the filing of exceptions. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 127(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the applicable rules of practice and procedure governing proceedings to formulate orders under the Cotton Research and Promotion Act (7 CFR Part 1205).

Preliminary statement. This proposed amendment of the order was formulated on the record of a public hearing with sessions held at Memphis, Tennessee on September 20-21, 1976, Atlanta, Georgia on September 23, 1976, Dallas, Texas on September 28, 1976, and Phoenix, Arizona on September 30, 1976. Notice of the hearing was published in the September 3, 1976 issue of the *FEDERAL REGISTER* (41 FR 37337). Proposal No. 1 contained in the notice of hearing was submitted by Mr. Harry S. Bell, Chairman of the Cotton Board, Memphis, Tennessee.

Material issues. The material issues presented on the record of hearing are as follows:

(1) The need for supplemental funds to finance a research and promotion program that will continue to effectuate the declared policy of the act;

(2) The amount of a supplemental assessment necessary to finance an effective program;

(3) The method of implementing the collection of the supplemental assessment;

(4) The reimbursement of the Secretary of Agriculture for certain expenses incurred by the Department of Agriculture in connection with the research and promotion program;

(5) Provision for such changes as may be necessary to make the order conform with amendatory action resulting from the hearing.

Findings and conclusions. The findings and conclusions on the material issues are based upon the evidence presented at the hearing and the record thereof, and are as follows:

1. It is concluded from the record evidence that the cotton industry needs additional funding to finance an adequate and needed research and promotion program. Therefore, the order should be amended to provide for a supplemental assessment in addition to the current \$1 per bale assessment to provide such additional funds to carry out the programs authorized under the Act.

It will take more money to strengthen cotton's competitive position and to maintain and expand domestic and foreign markets and uses for United States cotton. The effects of inflation and the recent decrease in \$1 per bale collections due to the smaller crops, plus the elimination of federal funds under Section 610 of the Agriculture Act of 1970, have resulted in an immediate need for supplemental funds to continue current efforts and to initiate new programs to encourage increased utilization of cotton and its products.

It is estimated that in 1975 a total of \$230 million was spent in synthetic fiber research compared to cotton producers' \$5.4 million. In the same year, synthetic producers put \$60 million into fiber advertising versus cotton producers' \$3.4 million.

Testimony indicated the greatest need for additional funding was in the sales promotion area to help retain and regain markets for cotton here and abroad. It was also indicated at the hearing that substantial increases in funding are needed in many research areas, including durable press, fire retardance, bolls, and programs to lower the costs of production of cotton.

2. The order should be amended to provide for a supplemental assessment rate of four-tenths of one percent of the value of cotton to begin with the 1977 crop. Furthermore, the order should provide, beginning with the 1978 crop, authority for the Cotton Board, with approval of the Secretary, to increase or decrease the rate of assessment from

time to time so long as any such increases do not result in the total supplemental assessment exceeding one percent of the value of cotton as determined by the Cotton Board and the Secretary.

In addition to the immediate need for increased funding, a long-range finance plan is necessary that would provide for maximum program effectiveness and utilizing, if necessary, the highest assessment level allowed by law—one percent of the value of cotton as determined by the Cotton Board and the Secretary.

Testimony indicated that a supplemental assessment of four-tenths of one percent of the value of cotton would generate sufficient funds to carry out present research and promotion programs more effectively and to begin the initial phases of new and expanded programs designed to increase the utilization of cotton and its products. Based on cotton prices for the 1975 crop, a supplemental assessment of four-tenths of one percent on a 10 million bale crop would yield approximately \$10 million. Testimony also indicated the need for authority for the Cotton Board and the Secretary to increase the supplemental assessment beginning with the 1978 crop provided the total supplemental assessment does not exceed one percent of the value of cotton.

The order should provide the Cotton Board and the Secretary with authority to decrease as well as increase the rate of the supplemental assessment. This flexibility is necessary in order to adjust to the financial needs of the program.

3. The order should be amended to provide that the Secretary shall determine the method for implementing the supplemental assessment.

The amendment to the Act provides that the supplemental assessment shall not exceed one percent of the value of cotton as determined by the Cotton Board and the Secretary. Two methods of implementing the collection of the supplemental assessment received considerable support and were examined in depth during the hearing. The Cotton Board's proposal as stated in the notice of hearing provides that the supplemental assessment shall be at a rate of four-tenths of one percent of the gross sales price per bale of cotton. During the hearing another method was proposed by the American Cotton Shippers Association which would retain the rate of four-tenths of one percent contained in the Cotton Board's proposal but the rate would be applied to an average historical value of cotton and converted to a fixed amount for each bale of cotton.

The principal merits of the Cotton Board's proposal of four-tenths of one percent of the gross sales price of the bale of cotton are as follows:

(a) It would be equitable to a producer as his assessment would be directly related to price actually received for his cotton. If he sells high, his assessment is correspondingly high. If he misses a good market price and sells at a low price, his assessment would likewise be less.

(b) It provides a relatively stable level of funds from year to year which would

facilitate effective budget planning and program execution. Generally, when cotton production is low, prices are high and vice versa. Therefore, assessment on a percentage basis of the gross sales price would tend to limit undesirable income fluctuations from year to year.

(c) It is a workable collection system even though the calculation and reporting of assessments would not be as simple as a flat rate assessment and would require additional time and expense on the part of collecting handlers.

One area of concern with this proposal is the absence of a common understanding of the gross sales price on which the four-tenths of one percent is to be applied. There are many methods of buying and selling cotton across the Cotton Belt and many different terms of sale. It was brought out that a "gin yard" price would generally eliminate the possibility that the assessment would be applied to charges that normally accrue on cotton after it leaves the gin, such as transportation, receiving charges at the warehouse, and warehouse storage charges. The record establishes that the percentage assessment should be applied uniformly to all sales. In this respect there was considerable testimony that the "gin yard" price for cotton would be the most uniform price on which to determine the assessment although other possibilities do exist. In view of this situation, the Cotton Board and the Secretary should develop a definition of value of cotton which could be based upon the relevant factors making up a gross sales price of cotton and such definition should be published in the Cotton Board rules and regulations. Section 1205.327 of the existing Cotton Research and Promotion order provides authority for the Cotton Board to make such regulations, subject to approval of the Secretary.

The other method for implementing the collection of a supplemental assessment was proposed by the American Cotton Shippers Association whose membership collects and remits the \$1 per bale assessment on about 70 percent of annual production.

Their proposal would retain the rate of assessment contained in the Cotton Board's proposal but the rate would be applied to an average historical value of cotton and converted to a fixed amount for each bale of cotton.

The principal merits of this method of assessment are as follows:

(a) It would be easily understood by producers because it would fall in the same pattern as the current \$1 per bale assessment. Producers could be advised of the supplemental per bale assessment before the beginning of each crop year. The value of cotton for this purpose could be established in Cotton Board rules and regulations. The hearing record reflects that there are several options which the Cotton Board and Secretary could use for determining the average value of cotton, including past and/or current prices.

(b) It would be simple for collecting handlers to collect, report, and remit as-

sessments. The supplemental assessment could be collected in the same manner as the present \$1 per bale assessment.

(c) It would be easy to administer by the Cotton Board at little or no extra staff expenses from the standpoint of collections, compliance, and refunds.

Both of the methods discussed above for implementing the additional assessment have considerable merit and meet the criteria of the Report of the House Committee on Agriculture on H.R. 10930, the legislation authorizing the supplemental assessment, which states that " * * * the amended order could provide either a flat dollar and cents rate per bale or a rate based on a percentage of value per bale using past or current cotton prices * * * ".

Over a period of time either method would provide an equitable assessment to producers and would generate approximately the same amount of funds. Both methods are workable from a collection and administrative standpoint. It is difficult at this time to determine which method is best suited to meet the fiscal and administrative needs to effectuate the program. Therefore, the order should be amended to allow the Secretary flexibility in determining which method should be used in implementing the increased assessment. If the amendment to the order is approved in the grower referendum, the Secretary will issue regulations specifying the method to be used in implementing the supplemental assessment.

4. The order should be amended to provide for the reimbursement of the Secretary for expenses up to \$200,000 incurred by him in connection with any referendum conducted under the Cotton Research and Promotion Act, and for expenses incurred by him for administrative costs and supervisory work up to five employee years annually.

Pub. L. 94-36 provides for the reimbursement of the Secretary for expenses up to \$200,000 for any referendum conducted under the Cotton Research and Promotion Act, and for expenses incurred by him for administrative costs and supervisory work up to five employee years annually.

It is the intention of Congress that the full costs of the program be borne by producer assessments. All organizations and practically all individuals who participated in the hearing either approved or voiced no objection to reimbursement of such costs.

The Secretary should be reimbursed for costs associated with the preparation for and holding of the referendum. For the purpose of reimbursing the Secretary for administrative costs and supervisory work an employee year would consist of salaries or portions of salaries, travel expenses, per diem, portions of overhead operating expenses, such as telephone, utilities, supplies and printing, or any other cost of these employees or their support facilities which relate directly to an administrative or supervisory role. The actual detailed procedures for reimbursing the Secretary for these refer-

endum, administrative and supervisory costs should be covered in a memorandum of understanding between the Cotton Board and the Secretary.

5. A proposal in the notice of hearing provided that consideration be given to making such other changes in the order as may be necessary to make the entire order conform to any amendments that may result from this proceeding. This proposal was supported at the hearing without opposition.

Minor modifications should be made in the order in two places changing singular assessment to plural assessments to conform with the conclusions recommended herein.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed October 20, 1976, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing.

Briefs and proposed findings and conclusions were filed on behalf of certain interested persons. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth herein. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the Cotton Research and Promotion order.

Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The Cotton Research and Promotion Order as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act.

Recommended amendment of the cotton research and promotion order. The following amendment of the Cotton Research and Promotion Order is recommended as the detailed means by which the foregoing conclusion may be carried out:

1. Revise § 1205.302 to read:
§ 1205.302 Act.

"Act" means the Cotton Research and Promotion Act, as amended (80 Stat. 279 et seq., 7 U.S.C. 2109-2119).

§ 1205.327 [Amended]

2. Amend § 1205.327(b) by adding "s" to the word "assessment".

3. Revise § 1205.330 to read:

§ 1205.330 Expenses.

(a) The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart.

(b) The Board shall reimburse the Secretary (1) for expenses up to \$200,000 incurred by him in connection with any referendum conducted under the Act and (2) for expenses incurred by the Department of Agriculture for administrative and supervisory costs up to five employee years annually.

(c) The funds to cover such expenses incurred under paragraphs (a) and (b) of this section shall be paid from assessments received pursuant to § 1205.331.

4. Revise § 1205.331 to read:

§ 1205.331 Assessments.

Each cotton producer or other person for whom cotton is being handled shall pay to the handler thereof designated by the Cotton Board pursuant to regulations issued by the Board and such handler shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board, at such times and in such manner as prescribed by regulations issued by the Board, assessments as prescribed in paragraphs (a) and (b) of this section to be used for such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board and the Secretary under this subpart:

(a) An assessment at the rate of \$1 per bale of cotton handled.

(b) A supplemental assessment on cotton handled which shall not exceed one percent of the value of such cotton as determined by the Cotton Board and approved by the Secretary and published in Cotton Board rules and regulations. For the 1977 and subsequent crops of cotton this supplemental assessment shall be at the rate of four-tenths of one percent of the value of cotton: *Provided*, That for any crop of cotton, beginning with the 1978 crop, the rate of the supplemental assessment may be increased or decreased by the Cotton Board with the approval of the Secretary. The Secretary shall prescribe by regulation whether the assessment rate shall be levied on (1) the current value of cotton, or (2) an average value determined from current and/or historical cotton prices and converted to a fixed amount for each bale.

§ 1205.334 [Amended]

5. Amend § 1205.334(c) by adding "s" to the word "assessment".

Signed at Washington, D.C. on November 11, 1976.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc. 76-33854 Filed 11-12-76; 10:04 am]

Farmers Home Administration

[7 CFR Part 1802, Part 1924]

MANAGEMENT ASSISTANCE TO BORROWERS AND APPLICANTS (INDIVIDUAL)

Proposed Redesignation, Consolidation and Revision

Notice is hereby given that the Farmers Home Administration (FmHA) has under consideration the establishment under Chapter XVIII, Title 7, Subchapter I—"Loan and Grant Programs (Individual)," of a new Part 1924, "Management Assistance to Borrowers (Individual)," in the Code of Federal Regulations. Subpart B, "Management Assistance to Individual Borrowers and Applicants," (§§ 1924.51-1924.100) of this new Part 1924 is consolidated, transferred and redesignated from various sections and units of Subparts A through F of Part 1802 of this Chapter XVIII, and has been revised including a change in title. These changes are proposed to clarify the regulations on management assistance to individual borrowers and to provide for the assistance to better fulfill the particular needs of the borrower and protect the interest of the Government.

Interested persons are invited to submit written comments, suggestions, data or arguments regarding the proposed amendment to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before December 15, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch during regular business hours (8:15 a.m.-4:45 p.m.).

As proposed, Subpart B of Part 1924 as revised, consolidated and redesignated reads as follows:

Subpart B—Management Assistance to Individual Borrowers and Applicants

Sec.	
1924.51	General.
1924.35-1924.54	[Reserved]
1924.55	Management assistance.
1924.56	Credit counseling.
1924.57	Planning.
1924.58	Record keeping.
1924.59	Supervision.
1924.60	Analysis.
1924.61	Nonfarm enterprises.
1924.62	State supplements.
1924.63-1924.100	[Reserved]

Subpart B—Management Assistance to Individual Borrowers and Applicants

§ 1924.51 General.

This Subpart sets forth policies for providing management assistance to individual applicants and borrowers. The term "individual" as used in this Subpart also applies to farming partnerships and corporations receiving Emergency (EM) and Soil and Water (SW) loans. This subpart pertains to all insured loans that depend on farm income for loan repayment, and also provides for the necessary supervision and appropriate credit counseling for Rural Housing (RH) loans not

dependent on farm income for loan repayment.

§§ 1924.52-1924.54 [Reserved]

§ 1924.55 Management assistance.

Management assistance includes the following:

(a) Credit counseling with applicants and borrowers.

(b) Planning of farm operations with applicants and borrowers.

(c) Record keeping by borrowers.

(d) Borrower supervision, by Farmers Home Administration (FmHA).

(e) Analysis of borrower operations and/or enterprises by the borrower and FmHA.

§ 1924.56 Credit counseling.

The County Supervisor will provide credit counseling to applicants and borrowers, including individual RH applicants and borrowers, regarding prudent use of credit in making profitable adjustments in operations, sources of available credit, general conditions under which credit is usually available, and methods of presenting requests for credit to lenders.

(a) In credit counseling with applicants who do not qualify for FmHA loans, the County Supervisor will:

(1) Explain why the applicant does not meet FmHA eligibility requirements and, if appropriate, why other credit should be available.

(2) Assist applicants in adjusting plans of operation and credit requests.

(b) In credit counseling with eligible applicants and borrowers the County Supervisor will:

(1) Assist in planning for the use of FmHA and other credit.

(2) Advise the applicant or borrower of FmHA's policy with respect to the use of other credit and assist in the determination of the amount of other credit best suited for the applicant or borrower.

§ 1924.57 Planning.

(a) Purpose. Provide a basis for:

(1) Attaining specific production and financial management objectives.

(2) Applicant or borrower management decisions.

(3) FmHA credit and management assistance determinations.

(b) Responsibility of applicant or borrower. Applicant or borrower will complete the plans required by FmHA. This will require giving thorough consideration to:

(1) Analyzing total resources available and their use.

(2) Adjustments, improvements, practices, and capital requirements needed for a successful operation.

(3) Determining the gross income, expenses, and net income that can reasonably be expected from the operation.

(c) Responsibility of County Supervisor. County Supervisor will assist the applicant or borrower in completing the plans required through:

(1) Stressing the need to correlate long-time and annual plans when both are being developed.

(2) Use of key farm management and financial management practices. These will be established for major farm enterprises, and will be updated annually. Key management practices not already established in an operation will be considered and incorporated into the operation when developing long-time and annual plans.

(3) Requiring applicants to when developing their long-time and annual plans fully utilize plans developed, if any, with the assistance of the Soil Conservation Service (SCS), with the Extension Service (ES), or other agency or farm management service.

(4) Planning for the appropriate use of income with the applicant. Priorities for the use of income follow:

(i) Family living and farm operating expenses.

(ii) Payment of scheduled debt installments.

(iii) Payment of delinquencies on secured debts, followed by payments on delinquent unsecured debt.

(iv) Proper use of anticipated remaining income to increase cash reserve, or to make necessary capital purchases.

(v) Advance payments on chattel and real estate debts.

(5) Determining the feasibility of the plans. After considering inventory changes, the net income and cash flow should be sufficient to enable the applicant to:

(i) Pay all operating expenses.

(ii) Meet necessary payments on debts.

(iii) Maintain necessary livestock, farm and home equipment, and buildings to the extent that such items have not been provided for in the operating expenses.

(d) *Long-time plans (Form FmHA 431-1, "Long-Time Farm and Home Plan").* The long-time plan reflects the long-time aims and objectives of families. It will be required of each applicant or borrower engaged in farming who is receiving a loan when the major adjustments or improvements needed will not be completed the first full crop year. The long-time plan, when developed, will be completed before preparing the annual plan, and revised as conditions require.

(e) *Annual plans (Form FmHA 431-2, "Farm and Home Plan").* An annual plan will be required of each applicant or borrower engaged in farming who receives an FmHA loan or funds from other credit sources as a result of FmHA executing either a subordination agreement or a lien waiver. Also, an annual plan for a typical year will be required when installments are deferred for more than one year or when major adjustments are being made to the operation. The annual plan will cover the 12 month period (or crop year) which most accurately reflects the annual production cycle of the operation.

(1) Complete annual plans will be required for those borrowers:

(i) Receiving initial loans.

(ii) Receiving subsequent FmHA loans or funds from other credit sources under

FmHA subordination agreements or lien waivers.

(2) Interim plans may be developed for the remainder of the current years operation to supplement an annual plan for the following year in those cases where the annual plan alone would not be sufficient to accurately show the complete cycle of the operation. This plan will show the planned use of income to be received from livestock and crops held for sale, and cash on hand at that time.

(f) *Documentation and revision of plans.* (1) Plans will be documented in sufficient detail to adequately reflect the overall condition of the operation.

(2) Initial and subsequent plans will be revised whenever significant changes in the borrower's operation occur during the year, including change in use of loan funds or loan amount. The plan will be marked "Revision" and changes noted by crossing out any original estimates and inserting new estimates immediately above. The borrower will initial and date the revised plan.

§ 1924.58 Record keeping.

(a) *Purpose.* All borrowers engaged in farming must maintain and use the appropriate type of farm records which will enable:

(1) Borrowers to make management decisions and to analyze their farming operations.

(2) FmHA to determine eligibility for loan assistance and assist the borrowers in analyzing their farming operations and in making prudent management decisions.

(b) *Responsibilities.* (1) Borrowers must select and maintain a record keeping system which adequately meets the needs of their farming operations and FmHA requirements.

(2) County Supervisors will assist borrowers in selecting, establishing, and maintaining record keeping systems.

Such systems may include the farm record book (Form FmHA 432-1, "Farm Family Record Book") available through FmHA, other record books, or a suitable system offered by a farm management service, State Extension Service, or commercial record keeping or accounting service.

(3) The system selected must provide, as a minimum, a record of the annual cash flow, beginning and end of year balance sheets, and an income statement. Borrowers receiving EM loans of \$250,000 or more will be required to use a record keeping system or accounting service which provides, as a minimum, a monthly cash flow statement, beginning and end of year balance sheets, and an income statement.

§ 1924.59 Supervision.

(a) *Purpose.* Supervision will be given by the County Supervisor to protect the Government's interest and to assist the borrower in accomplishing the purpose of the loan.

(b) *Responsibility of County Supervisor.* The County Supervisor will determine and select the appropriate method of supervision to be used in assisting each borrower.

(c) *Supervisory methods.* Supervision may be given through farm visits, review of farm records, collateral inspections, meetings with borrowers on an individual or group basis, letters, telephone, media releases, etc. A complete record of each visit, meeting, or other contact will be made in the case file running record, underscoring those items which require followup action.

(d) *Farm visits.* (1) A minimum of one visit a year will be made by the County Supervisor to borrowers who have been indebted for less than one full crop year, or classified as problem cases. Borrowers who have been delinquent more than 1 year will be visited by the County Supervisor, accompanied by the District Director. In cases involving borrowers with RH loans on nonfarm tracts, periodic inspections ordinarily will be made only if foreclosure action is likely to be taken, the property has been abandoned, or when necessary to protect the interest of the Government.

(2) Visits will be coordinated with inspections of security property required for the FmHA loan or loans owed by the borrower.

(3) The County Supervisor will use the following priorities in scheduling routine visits:

(i) Problem case borrowers.

(ii) Initial borrowers.

(iii) Borrowers receiving annual production type loans.

(iv) Other borrowers.

§ 1924.60 Analysis.

(a) *Purpose.* Analysis by the County Supervisor assists the borrower in a review and evaluation of the farm operation to determine progress, problems, and corrective actions needed.

(b) *Responsibility of County Supervisor.* The County Supervisor will:

(1) Adjust the analysis to the needs of each borrower and FmHA.

(2) Determine the date and place of the analysis, and scheduling the analysis at the time of year when the most effective results will be obtained.

(3) Document and report the results of the analysis.

(i) Assist the borrower in completing the "actual" plan for the current year is necessary, and in recording a complete plan for the next year.

(ii) Obtain copy of completed plans. Make a complete entry in the case file running record of results and agreements reached during the analysis, underscoring those items requiring followup action.

(c) *Conducting analysis.* An analysis will be conducted for borrowers:

(1) Seriously delinquent or problem cases.

(2) Experiencing financial and/or production management problems.

(3) Reorganizing or implementing a major change in operations which has not been completed.

(4) At the end of the first crop year after receiving an initial loan and each year thereafter until the County Supervisor determines the borrower is conducting the operation satisfactorily.

§ 1924.61 Nonfarm enterprises.

This is any business enterprise which supplements farm income by providing goods or services for which there is a need and a reasonably reliable market. The same general policies covered in this Subpart for giving management assistance to an applicant or borrower on farm loans will be followed in dealing with an applicant or borrower on nonfarm enterprise loans. The appropriate plans and record book will be substituted for the nonfarm enterprise. FmHA Forms 431-4, "Business Analysis Nonagricultural Enterprise," and 431-1, "Business and Family Record Book," available at most FmHA offices can be used for these purposes.

§ 1924.62 State supplements.

The State Director may supplement this Subpart as necessary to:

(a) Assure that each area included under the heading of management assistance will be carried out uniformly and effectively and to assign responsibilities to District Directors and other members of the State staff.

(b) Obtain information needed in the State about the performance of individual borrowers and the results of management assistance carried out in each County Office.

(c) Assure key farm management and financial management practices are established, and kept current in each County Office.

§ 1924.63-1924.100 [Reserved]

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2492; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

Dated: November 5, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-33551 Filed 11-12-76; 8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Parts 330, 331]

CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE; INSURANCE OF TRUST FUNDS

Proposed Rules Governing Deposit Insurance Coverage of Accounts Held by Investment Companies

Correction

In FR Doc. 76-32850, appearing at page 49492 in the issue for Tuesday, November 9, 1976, make the following changes:

1. On page 49493, in the first column, in paragraph "2." at the bottom of the page, the first line of that paragraph should read "2. Any common trust fund or similar fund * * *"

2. In paragraph 3. in the same column, the sixth line should read "which inures to the benefit of any pri- * * *"

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for Purpose of Government Procurements for Refuse Collection With or Without Disposal

It has come to the attention of the Small Business Administration that some contracting officers are classifying refuse collection as a "service not elsewhere defined," subject to a \$2 million annual receipts size standard; others are classifying it in SIC Industry No. 4212, Local Trucking Without Storage, subject to a \$7 million size standard (because the Standard Industrial Classification Manual lists "Collecting and Transporting refuse, Without Disposal" in that industry); and others have classified it in SIC Industry No. 4953, Refuse Systems, subject to a \$2 million annual receipts standard (because the manual lists "Rubbish Collection and Disposal" in that industry).

In order to clarify the situation, we propose to adopt a specific definition of small business for the purpose of Government procurements for refuse collection with or without disposal.

The \$7 million annual receipts size standard applicable to local and long-distance trucking results primarily from the fact that there are many very large interstate freight and van lines. We consider that such a standard is too high for the purpose of Government procurements for refuse collection with or without disposal. Likewise, we are of the opinion that, because of the high capital investment required for equipment needed in the performance of Government refuse collection contracts, the \$2 million service standard probably is too low for such purposes.

We are of the opinion that the standard should be somewhere between those extremes, and have concluded, on the basis of such limited information as we have been able to obtain, that a standard of \$3.5 million would be appropriate. Accordingly, we propose to adopt a \$3.5 million annual receipts standard.

More specifically, it is proposed to amend § 121.3-8 of Part 121, Chapter I, Title 13 of the Code of Federal Regulations, by adding a new paragraph (e) (16) to read as follows:

§ 121.3-8 Definition of small business for Government procurement

(e) Services. * * *

(16) Any concern bidding on a contract for refuse removal services, with or without disposal, is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed \$3.5 million.

Interested parties may file with the Small Business Administration on or before December 15, 1976, written statements of facts, opinions, or arguments concerning the proposal.

All correspondence shall be addressed to:

William L. Pellington, Director, Size Standards Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.009, Procurement Assistance to Small Business)

Dated: November 2, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-33278 Filed 11-12-76; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 76-NE-36]

GENERAL ELECTRIC COMPANY, CT64-820-4 ENGINES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to General Electric Company CT64-820-4 turboprop engines. There have been failures of Stage 4 turbine buckets during factory test cell operations. Laboratory investigation of the fractured buckets showed that failure was due to tensile yield of the bucket dovetail/shank. Subsequent bucket tensile tests resulted in tensile failures at stress levels lower than analytically predicted. Since this condition is likely to exist or develop in other engines of the same type design, the proposed airworthiness directive would impose a reduction of the output shaft overspeed limit on General Electric Company CT64-820-4 turboprop engines. Since the only known applications of this engine are on foreign military aircraft, the proposed airworthiness directive cannot address revisions of corresponding Airplane Flight Manual limitations sections.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of Regional Counsel, Airworthiness, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before December 20, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Office of the Regional Counsel, for examination by interested persons.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, it is proposed to amend Section 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

To prevent the possibility of overstressing the Stage 4 turbine buckets, the engine output shaft overspeed limit is reduced from 1512 RPM to 1450 RPM. The original limit is given in Note 2 to Type Certificate Data Sheet E13EA-10, dated February 15, 1976.

GENERAL ELECTRIC COMPANY. Applies to all General Electric Company CT64-820-4 turboprop engines. Compliance required within the next 100 hours time in service after the effective date of this AD, unless already accomplished.

Issued in Burlington, Massachusetts, on November 8, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc. 76-33516 Filed 11-12-76; 8:45 am]

[14 CFR Part 121]

[Docket No. 16257; Notice No. 76-23]

ADDITIONAL WEATHER INFORMATION: DOMESTIC AND FLAG AIR CARRIERS

Proposed Rule Making

The Federal Aviation Administration is considering amending Part 121 of the Federal Aviation Regulations to require that domestic and flag air carriers, when conducting operations in scheduled air transportation, adopt an approved system for obtaining forecasts and reports of adverse weather phenomena that may affect the safety of a flight while en route and at each airport to be used. In addition, the proposal would ensure that all available weather reports and forecasts are given to the pilot in command prior to flight and en route.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before January 17, 1977, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information

Center, APA-230, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

A review of the recent aircraft accidents indicates that hazardous weather conditions, including thunderstorms, low level wind shear and clear air turbulence, remain a serious threat to air safety. Since 1960, the FAA has required that transport category aircraft used in the operations of Part 121 certificate holders be equipped with airborne weather radar equipment. That equipment has proven useful in the detection of thunderstorms and other potentially hazardous weather phenomena en route and has enabled pilots to avoid areas where such weather exists or to take other action in the interest of safety. In addition, the FAA now believes that a system for transmitting to flag and domestic air carrier flight crewmembers information concerning clear air turbulence, thunderstorms, and low level wind shear, that may occur along the route intended to be flown, is feasible and should be required.

Some of the major flag and domestic air carriers have adopted and are currently using systems that employ data obtained from the National Severe Storm Forecast Center of the National Weather Service, together with pilot reports of inflight hazardous weather conditions and other pertinent data, and are forecasting the existence and locations of adverse weather phenomena. This information is transmitted to flight crewmembers in a form that is useable by them both prior to and during flight. One of the systems currently in use employs a direct data network connection with the National Weather Service's National Severe Storm Forecast Center at Kansas City, Missouri, for the transmission of severe weather data as soon as it is placed in the system. At the air carrier dispatch meteorological offices this weather data is immediately plotted on a master board, a plot of the entire United States, with all of the air carrier's routes delineated thereon. Meteorologists then apply recognized weather principles to the available data and develop reasonable predictions. Forecast and actual pilot reported data on low level wind shear and clear air turbulence are also immediately plotted on the master board. Information from the master board is then put in useable teletype form and is transmitted over company radio circuits. The individual flight crewmembers can contact their company on selected frequencies and can record all weather data pertinent to the route being flown or about to be flown.

A review of systems currently in use has led the FAA to believe that there are many elements in them that could be beneficially adopted by all flag and domestic air carriers for their routes both in the United States and abroad in the

event that the requisite weather data are available.

As a result of a 1973 crash of a large passenger-carrying airplane the probable cause of which was determined by the National Transportation Safety Board (NTSB) to be encounter with a downdraft during an instrument approach into a thunderstorm, on April 18, 1974, the NTSB recommended to the FAA (Recommendation No. A-74-14), that it "implement, in cooperation with the National Weather Service, a system to relay severe thunderstorms and tornado warning bulletins expeditiously to inbound and outbound flights when such bulletins include the terminal area."

On July 30, 1975, the Special Air Safety Advisory Group (SASAG), a group of six retired air carrier pilots who had conducted a safety investigation and analysis of air carrier operations, submitted its report and recommendations to the FAA. With respect to the prominent hazardous weather phenomena that are dealt with, namely, thunderstorms, clear air turbulence, and low altitude wind shear, the SASAG report states that serious deficiencies were observed in information available to flight crewmembers on hazardous weather.

There is a wealth of weather information already available from the National Weather Service in the form of printed forecasts and reports and current and prognostic maps. These include Area Forecasts, Terminal Forecasts, In-Flight Weather Advisories known as SIGMETs and AIRMETs, Winds and Temperatures Aloft Forecasts, hourly sequence and special surface reports, pilot reports and radar reports. The Area Forecasts are issued every 12 hours by several forecast offices of the National Weather Service covering the 50 states. The forecast includes expected weather for an 18-hour period in detail and a more general outlook for an additional 12 hours. Terminal forecasts are issued 3 times daily at approximately 6-hour intervals, generally for a 24-hour period, for more than 466 terminals. They include specifically expected ceiling and clouds, visibility, weather and obstructions to vision, and surface wind conditions at each terminal. SIGMETs and AIRMETs identify weather phenomena of particular significance to the safety of aircraft. In addition, each Flight Service Station broadcasts weather advisories that affect an area within 150 nautical miles of the station or within 150 nautical miles of a remote facility controlled by the station.

It should be noted that an extensive discussion of the facilities and services provided by the National Weather Service is found in Advisory Circulars AC 00-6A entitled Aviation Weather and in AC 00-45 entitled Aviation Weather Services.

The rule making that is proposed herein would amend § 121.101 to require flag and domestic air carriers to have an FAA approved system that is capable of gathering together weather forecasts and reports of adverse weather phenomena, such as clear air turbulence,

thunderstorms, and low altitude wind shear, that may affect safety of flight on each route to be flown and at each airport to be used. In addition, this proposal would amend § 121.601 to ensure that the aircraft dispatcher provides the pilot in command with all available reports and forecasts of weather phenomena for each route and airport a flight is to use. Current § 121.101(b) limits the use by any domestic or flag air carrier of any weather report used to control flight to those prepared by the U.S. National Weather Service or a source approved by the Weather Bureau. Under this proposal a domestic or flag air carrier would submit to the Administrator, for approval, a system for gathering reports and forecasts of adverse weather phenomena which could originate in weather sources other than the U.S. National Weather Service.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(secs. 313(a), 601, and 604 Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing, it is proposed to amend Part 121 of the Federal Aviation Regulations as follows:

1. By revising paragraphs (b) and (c) and by adding a new paragraph (d) to § 121.101 to read as follows:

§ 121.101 Weather reporting facilities.

(b) Except as provided in paragraph (d) of this section, no domestic or flag air carrier may use any weather report to control flight unless—

(1) for operations within the 48 contiguous States and the District of Columbia, it was prepared by the U.S. National Weather Service or a source approved by the Weather Bureau; or

(2) For operations conducted outside the 48 contiguous States and the District of Columbia, it was prepared by a source approved by the Administrator.

(c) Each domestic or flag air carrier that uses forecasts to control flight movements shall use forecasts prepared from weather reports specified in paragraph (b) of this section and from any source approved under its system adopted pursuant to paragraph (d) of this section.

(d) Each domestic and flag air carrier shall (6 months after the effective date of an amendment) adopt and put into use an approved system for obtaining forecasts and reports of adverse weather phenomena, such as clear air turbulence, thunderstorms, and low altitude wind shear, that may affect safety of flight on each route to be flown and at each airport to be used.

2. By revising paragraph (b) and redesignating it as paragraph (c) and by adding a new paragraph (b) to § 121.601 to read as follows:

§ 121.601 Aircraft dispatcher information to the pilot in command: domestic and flag carriers.

(b) Before beginning a flight, the aircraft dispatcher shall provide the pilot in command with all available weather reports and forecasts of weather phenomena, including adverse weather phenomena, such as clear air turbulence, thunderstorms, and low altitude wind shear, for each route to be flown and each airport to be used.

(c) During a flight, the aircraft dispatcher shall provide the pilot in command any additional available information of meteorological conditions, including adverse weather phenomena, such as clear air turbulence, thunderstorms, and low altitude wind shear; and irregularities of facilities and services that may affect the safety of the flight.

Issued in Washington, D.C., on November 5, 1976.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc. 76-33515 Filed 11-12-76; 8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 32, 153, 157]

[Docket No. RM77-3]

ENERGY POLICY AND CONSERVATION

Proposed Policy Statement and Rulemaking

NOVEMBER 8, 1976.

Notice is hereby given, pursuant to Section 553 of Title 5 of the United States Code, section 309 of the Federal Power Act, as amended (49 Stat. 858-859, 16 U.S.C. 825h) and section 16 of the Natural Gas Act, as amended (52 Stat. 830, 15 U.S.C. 717e) that the Commission proposes to add a new subdivision to Part 2—General Policy and Interpretation, Chapter I, Title 18 of the Code of Federal Regulations, to implement the provisions of the Energy Policy and Conservation Act of 1975, Pub. L. 94-163, approved December 22, 1975, 89 Stat. 871-969, especially sections 382(b) and 382(c) thereof, 89 Stat. 940, which direct that to the fullest extent possible, the policies, regulations and public laws of the United States shall be interpreted and administered with the policies for promoting energy conservation and energy efficiency set forth in that Act.

To comply with these provisions of the Energy Policy and Conservation Act, regulated utilities will be required to submit information to the Federal Power Commission in applications involved in a "major regulatory action" indicating how such action affects energy efficiency and energy conservation.

The Commission proposes to define the term "major regulatory action" as it applies to the various types of authority it exercises under the Federal Power Act and the Natural Gas Act. Such a definition should not be confused with simi-

lar definitions which have been prepared in the past in order to satisfy other legislation, e.g. it should not be confused with the definition of a "major Federal action significantly affecting the quality of the human environment" for the purposes of the National Environmental Policy Act.

Notice is also given that the Commission proposed to amend §§ 32.1, 32.32, and 32.51 of its regulations under Part II of the Federal Power Act to require applicants in certain interconnection cases and in electric energy export cases to submit therewith a statement concerning energy conservation and energy efficiency which may result if the actions requested in the applications are granted by the Commission.

Notice is also given that the Commission proposes to amend §§ 153.3 and 157.14 of its regulations under the Natural Gas Act to require applicants in certain export and import cases and in cases involving certificates of public convenience and necessity and in cases involving orders permitting and approving abandonment to submit therewith a statement concerning energy conservation and efficiency which will result if the actions requested in the applications are granted by the Commission.

The Congress enacted the Energy Policy and Conservation Act on December 22, 1975, Pub. L. 94-163. The stated purposes of the Act are: To increase domestic energy supplies and availability; to restrain energy demand; and to prepare for energy emergencies. Congress, through sections 382(b) and 382(c) of the Act, 89 Stat. 940, has directed the Commission to include in any major regulatory action, where practicable and consistent with the exercise of authority under other law, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation, unless the authority is exercised under a provision of law designed to protect the public health or safety.

The amendments proposed herein set forth the policy and procedural guidelines which the Commission intends to follow in exercising its responsibilities under the Energy Policy and Conservation Act of 1975 with regard to (1) the licensing of hydroelectric projects pursuant to Part I of the Federal Power Act; (2) the authority to review and regulate interconnections and exports pursuant to Part II of the Federal Power Act; (3) the authority to review and regulate exports and imports of natural gas pursuant to section 3 of the Natural Gas Act; and (4) the issuance of certificates of public convenience and necessity to natural gas pipelines pursuant to section 7 of the Natural Gas Act.

The proposed amendments to Part 2 of the Commission's General Rules, to Part 32 of the Commission's Regulations under the Federal Power Act, and to Parts 153 and 157 of the Commission's Regulations under the Natural Gas Act, would be issued under the au-

thority granted the Federal Power Commission by the Federal Power Act, as amended, particularly Sections 3, 4, 6, 10, 13, 15, 19, 20, 23, 202, 205, 206, 208, 209, 301, 303, 307, 308, 309, 311, (41 Stat. 1063-1075, 46 Stat. 798, 49 Stat. 838-844, 846, 848, 849, 851-860, 61 Stat. 501, 67 Stat. 461, 82 Stat. 617; 16 U.S.C. 796, 797, 799, 803, 806, 808, 812, 813, 816, 817, 824a, 824d, 824e, 824g, 824h, 825, 825b, 825f, 825g, 825h, 825i, 825k), by the Natural Gas Act, as amended, particularly sections 3, 4, 7, and 16 (52 Stat. 822, 824, 825, 830, 56 Stat. 83, 84, 61 Stat. 459, 76 Stat. 72; 15 U.S.C. 717b, 717c, 717f, 717g) and by the Energy Policy and Conservation Act of 1975, Pub. L. 94-163, enacted December 22, 1975 particularly sections 382(b) and 382(c), (89 Stat. 940; 42 U.S.C. 6362b, 6362c).

A. PART 2—GENERAL POLICY AND INTERPRETATIONS

In order to implement the subject matter considered above, the Commission proposes to amend Part 2, Subchapter A—General Rules, Chapter I, Title 18, Code of Federal Regulations, by adding at the end of Part 2 a new subdivision entitled "Statement of General Policy to Implement Procedures for Compliance with the Energy Policy and Conservation Act of 1975," which will read as follows:

STATEMENT OF GENERAL POLICY TO IMPLEMENT PROCEDURES FOR COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT OF 1975

§ 2.100 Statement of energy conservation and energy efficiency.

(a) It shall be the general policy of the Federal Power Commission to adopt and to adhere to the objectives and aims of the Energy Policy and Conservation Act which requires, among other things, that a statement of the probable impact of any major regulatory action on energy conservation, and energy efficiency be included in any major regulatory action, where practicable and consistent with the exercise of authority under other law, unless the authority is exercised under a provision of law designed to protect the public health and safety.

(b) Therefore, in compliance with the Act, a statement of the probable impact on energy conservation and energy efficiency of any major regulatory action taken by us under the Federal Power Act, the Natural Gas Act and Executive Order No. 10485 dated September 3, 1953 (as defined in §§ 2.101, 2.102, 2.103, 2.104, and 2.105 of this part) will be included and considered in major regulatory actions.

§ 2.101 Compliance with the Energy Policy and Conservation Act of 1975 (EPCA) with regard to Rulemakings.

Information concerning energy conservation and energy efficiency will be solicited in those Rulemakings determined on an individual basis by the Commission, to be a "major regulatory action" relative to EPCA.

§ 2.102 Compliance with the Energy Policy and Conservation Act of 1975 (EPCA) Under Part I of the Federal Power Act.

(a) A "major regulatory action" is not defined for purposes of complying with EPCA under Part I of the Federal Power Act because information concerning energy conservation and energy efficiency in licensed projects sufficient to satisfy the requirements of EPCA is already required in hydroelectric project license applications. The information is considered in determining whether a license is to be issued. Therefore, the Commission is already fulfilling the requirements of EPCA as it administers Part I of the Federal Power Act.

(b) In order to indicate that the Commission has complied with the requirements of EPCA, conventional hydroelectric licenses shall state the project's output in kilowatts and kilowatt-hours, the conservation benefits associated with this renewable resource, and the amount of non-renewable resources that will be conserved.

(c) Pumped storage hydroelectric project licenses shall state the project's power output in kilowatts, the benefit of the project's operation to the electric system, the conservation benefits associated with a pumped storage project, and the amount of non-renewable resources that will be conserved.

§ 2.103 Compliance with the Energy Policy and Conservation Act of 1975 (EPCA) Under Part II of the Federal Power Act.

(a) For purposes of complying with EPCA under Part II of the Federal Power Act, an action is a major regulatory action only if its subject matter concerns an application:

(1) For establishing physical connection of transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy for the purpose of selling energy to or exchanging energy with such persons where the amount of energy to be exchanged exceeds 200 million kilowatt-hours per year, except that an application for emergency connections filed pursuant to section 202(c) of the Act shall not be considered a major regulatory action.

(2) For export of electric energy from the United States to a foreign country where the amount of energy to be transmitted exceeds 200 million kilowatt-hours per year, except that an application filed for an interconnection during an emergency pursuant to Section 202 (c) of the Act shall not be considered a major regulatory action.

(b) All applications described in Paragraph (a) of this Section shall include a Statement of Energy Conservation and Energy Efficiency. The Statement shall contain at least the following information:

(1) the total increase or decrease in the kilowatt-hours to be delivered,

(2) the total increase or decrease in the annual consumption of fuel (natural gas and/or oil), expressed in Btu equivalent units, as a result of the proposed action,

(3) a description of any other policies or actions to be implemented in connection with the proposed action which could effect energy conservation by the utility or its customers,

(4) a description of the increases or decreases in energy efficiency resulting from the proposed action, whether generation, transmission, or distribution by the utility, or consumption by customers.

(5) a description of alternative actions considered and their projected energy conservation and energy efficiency,

(6) an analysis of the cost of the proposed action and the costs of the alternative actions considered.

(c) The design of electric rates can effect conservation and efficiency in electric usage, but it is primarily in en uses, and not in wholesale uses, that such effects originate. Therefore, it is difficult in most cases to demonstrate any direct impact on conservation and efficiency through the redesign of wholesale electric rates. However, where the Commission identifies situations where proposed modifications in wholesale rate design would be likely to materially impact conservation and efficiency, it will on an exception basis classify those rate proposals as "major regulatory actions," and will include appropriate conservation and efficiency statements.

§ 2.104 Compliance with the Energy Policy and Conservation Act of 1975 (EPCA) Under the Natural Gas Act.

(a) For purposes of complying with EPCA under the Natural Gas Act, an action is a major regulatory action only if its subject matter concerns an application for authorization to export or import natural gas filed pursuant to section 3 of the Act, unless covered by § 2.51 of the Commission's Regulations, and for a certificate of public convenience and necessity or for orders permitting and approving abandonment filed pursuant to Section 7 of the Act which envision or which will permit the attachment of gas users not previously served, or which will result in a re-allocation among users or among priorities (as defined in § 2.78 of the Commission's General Policy and Interpretations) of existing natural gas supplies.

(b) All applications described in Paragraph (a) of this section shall include a Statement of Energy Conservation and Energy Efficiency. The Statement shall contain at least the following information:

(1) The total increase or decrease in natural gas BTU's to be delivered,

(2) The end use of such proposed increased or decreased natural gas deliveries broken down as specifically as possible and also by FPC curtailment priority classification,

(3) A comparison of the proposed end use of increased or decreased gas deliv-

eries with system-wide end use of applicant company calculated on the same basis.

(4) A comparison of the probable end use of natural gas, by FPC priority, for each of the next three years assuming (a) granting of the application and (b) denial of the application.

(5) The total annual increase or decrease in consumption of raw, non-renewable energy resources, specified by type, i.e. coal, oil or gas.

(6) A description of alternative actions considered and their projected energy conservation and energy efficiency, and

(7) An analysis of the costs of the proposed action and the costs of the alternative actions considered.

(c) Energy conservation and energy efficiency are already matters considered in rate proceedings and generally play an important part in any Commission actions on rate proposals. Therefore, the Commission will include energy conservation and energy efficiency statements in the appropriate regulatory rate actions.

§ 2.105 Compliance with the Energy Policy and Conservation Act of 1975 (EPCA) Under Executive Order No. 10485 dated September 3, 1953.

(a) For purposes of complying with EPCA under Executive Order No. 10485 dated September 3, 1953 an action is a major regulatory action only if its subject matter concerns an application for a Presidential permit to establish transmission facilities at an international border where the amount of energy to be transmitted exceeds two hundred million kilowatt-hours per year.

(b) All applications described in Paragraph (a) of this Section shall include a Statement of Energy Conservation and Energy Efficiency. The Statement shall contain at least the following information:

(1) Total increase or decrease, if any, in the kilowatt-hours to be delivered,

(2) Total increase or decrease in the annual consumption of fuels by type expressed in BTU equivalent units, as a result of the proposed action,

(3) A description of any other policies or actions to be implemented in connection with the proposed action which could affect energy conservation by the utility or its customers.

(4) A description of the increases or decreases in energy efficiency resulting from the proposed action, whether in generation, transmission, or distribution by the utility or consumption by customers,

(5) a description of alternative actions considered and their projected energy conservation and efficiency, and

(6) an analysis of the costs of the proposed action and the costs of the alternative actions considered.

PART 32—INTERCONNECTION OF FACILITIES; EMERGENCIES; TRANSMISSION TO FOREIGN COUNTRY

The Commission proposes to amend Part 32, Subchapter B—Regulations Un-

der the Federal Power Act, Chapter I, Title 18, Code of Federal Regulations, as follows:

1. In § 32.1, add a new paragraph (h) to read as follows:

§ 32.1 Contents of application, filing fee.

(h) The provisions of § 2.103 of this chapter shall apply to all applications for a proposed interconnection.

2. In § 32.32, add a new paragraph (h) to read as follows:

§ 32.2 Contents of application.

(h) The provisions of § 2.103 of this chapter shall apply to all applications for an authorization to transmit electric energy to a foreign country.

3. In § 32.51, add a new paragraph (e) to read as follows:

§ 32.51 Contents of application; filing fee.

(e) The provisions of § 2.105 of this chapter shall apply to applications for an authorization for construction, operation, maintenance or connection of facilities for the transmission of electric energy at an international boundary.

PART 153—APPLICATION FOR AUTHORIZATION TO EXPORT OR IMPORT NATURAL GAS

The Commission proposes to amend § 153.3, Part 153, Subchapter E—Regulations Under the Natural Gas Act, Chapter I, Title 18, Code of Federal Regulations, as follows:

In § 153.3, add a new paragraph (i) to read as follows:

§ 153.3 Contents of application; filing fee.

(i) The provisions of § 2.104 of this chapter shall apply to all applications for authorization to export or import natural gas, unless covered by § 2.51 of the Commission's Regulations.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

The Commission proposes to amend § 157.14, Part 157, Subchapter E—Regulations Under the Natural Gas Act, Chapter I, Title 18, Code of Federal Regulations, as follows:

In Section 157.14(a), add a new subparagraph (6-e) to read as follows:

§ 157.14 Exhibits.

(6) (6-e) *Exhibit F-V*, Exhibit F-V—Statement by Applicant Concerning the Requirements of the Energy Policy and Conservation Act of 1975, Public Law 94-316, sections 382(b) and sections 382(c) thereof, 89 Stat. 940. The provisions of Section 2.104 of this chapter shall apply to all applications filed under Section 7 of the Natural Gas Act for certificates of

public convenience and necessity, or in orders permitting and approving abandonment which envision or which will permit the attachment of gas users not previously served, or which will result in a re-allocation among users or among priorities (as defined in Paragraph 2.78 of the Commission's General Policy and Interpretations) of existing natural gas supplies.

It is proposed also that the requirements of EPCA, as specified in the text above, be required in applications filed later than the end of the thirtieth day after a final order issues in this rulemaking. It is also proposed that for good cause shown the Commission may waive the requirements of EPCA, as specified in the text above, on a case-by-case basis.

Any interested person may submit data, suggestions, views and comments in writing concerning all or part of the amendments proposed herein to the Federal Power Commission, Washington, D.C. 20426 not later than January 7, 1977. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, 825 North Capitol Street, N.E., Room 1000, Washington, D.C. 20426 during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the Staff of the Federal Power Commission to discuss the proposed rulemaking. The Staff, in its discretion, may grant or deny requests for conference.

The Secretary shall cause prompt publication of this Notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33600 Filed 11-12-76;8:45 am]

[18 CFR Parts 2 and 35]

[Docket No. RM76-29]

ELECTRIC RATE SCHEDULE FILINGS AND REQUIREMENT FOR FILING OF COMPARATIVE RATE INFORMATION IN CERTAIN SITUATIONS

Amendment of Proposed Statement of Policy To Include Rulemaking

NOVEMBER 8, 1976.

Take notice that the Commission is amending its notice of proposed statement of policy issued on July 29, 1976, so as to convert it to a proposed statement of policy and proposed rulemaking. In the Notice issued on July 29, 1976 (41 FR 32910, Aug. 6, 1976), the Commission proposes to amend Part 2 of Title 18 CFR by adding a new subsection setting forth the procedure which will be fol-

lowed by the Commission to implement compliance with the Supreme Court decision in *F.P.C. v. Conway Corp.*, 44 U.S.L.W. 4777 (1976), aff'g 510 F. 2d 1264 (D.C. Cir. 1975). The Commission now proposes, in addition to amendment of Part 2, to amend Part 35 of Title 18 CFR by adding new subsections 35.12(b) (6) and 35.13(e). The purpose of this amendment is to make any filing requirements in connection with the Statement of Policy binding in all applicable subsequent proceedings. *Pacific Gas & Electric Co. v. F.P.C.*, 506 F. 2d 33 (D.C. Cir. 1974).

The Commission received comments from numerous interested parties as a response to the Notice of July 29, 1976. In arriving at a final formulation of the proposed Statement of Policy these comments will be given consideration by the Commission. In cases where the filing public utility will be requested to file a revenue comparison of the proposed wholesale rates with the retail rates for comparable service, these requests will be given the force of law by including the requirements under § 35.12 "Filing of initial rate schedules" and § 35.13 "Filing of changes in rate schedules."

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, on or before November 30, 1976, views in writing concerning the proposed rulemaking. Written submissions will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submissions before taking final action on the proposed rulemaking. An original and 24 conformed copies should be filed with the Secretary of the Commission. The Secretary will serve 2 copies of each submittal on each of the five state public service commissioners designated as the board of consultants.

The Secretary shall cause prompt publication of this notice in the *FEDERAL REGISTER*.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33599 Filed 11-12-76; 8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2375]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Borough of Bernardsville, New Jersey

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the

Housing and Urban Development Act of 1968 Pub. L. 90-448), 41 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Borough of Bernardsville, New Jersey.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough of Bernardsville must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Borough Hall, Route 202, Bernardsville, New Jersey 07924.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Michael Nervine, Borough Hall, Route 202, Bernardsville, New Jersey 07924. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Mine Brook	Whitenack Rd.	210	270	10
	Meeker Rd. ¹	257	10	20
	Mill St. ¹	392	(2)	140
	Mine Mount Rd.	414	60	60
Tributary F	U.S. Route 202	223	60	70
	Douglas Rd. ¹	256	30	30
Tributary I	U.S. Route 202 ¹	272	20	30
	Harmony Rd.	293	210	140
Tributary MB	Seney Dr.	419	230	45
	Thompson St.	440	10	40
	Oleott Lane ¹	454		
	Jockey Hollow	429	(2)	30
Passaic River	Indian Grave Bridge	312	(2)	90
	Chestnut Ave. ¹			
Tributary K	Washington Corner Rd.	588	30	40
	Lloyd Rd. ¹	496	30	30
	Washington Corner	535	70	80

¹ Downstream side of road.

² At bank.

³ Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33176 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2388]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Borough of Cressona, Schuylkill County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Cressona, Schuylkill County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in

identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Borough Hall, Cressona.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable John March, Mayor of Cressona, 26 Ash Street, Cressona, Pennsylvania 17929. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

PROPOSED RULES

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
West Branch Schuyl- kill River.	Eastern corporate limits.....	524	10	25
	Confluence with Beaver Creek.....	534	1,400	135
	Pottsville Street Bridge.....	539	0	25
Beaver Creek.....	Northern corporate limits.....	550	25	25
	Along Con Rail bridge.....	539	70	60
	North 2d St.....	546	20	40
	Thomas St.....	556	90	50
Panther Creek.....	Western corporate limits.....	572	100	75
	Grove St.....	542	80	100
	Main St.....	547	30	70
	Con Rail bridge.....	563	30	70
	Beckville Rd.....	569	50	200

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 1, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33189 Filed 11-12-76;8:45 am]

[Docket No. FI-2381]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Borough of Folcroft, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Folcroft, Delaware County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to

participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Borough Hall, 1555 Baltimore Avenue, Folcroft, Pennsylvania 19032.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable William J. Monteith, Mayor of Folcroft, Folcroft, Pennsylvania 19032. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Hermesprota Creek.....	B. & O. RR.....	72	20	50
	Chester Pike.....	72	60	65

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33184 Filed 11-12-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2421]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations Borough of Jim Thorpe, Carbon County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the

Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Bor-

ough of Jim Thorpe, Carbon County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information show-

ing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Borough Hall, 173 West Broadway, Jim Thorpe, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Michael Hichok, 37 West 7th Street, Jim Thorpe, Pennsylvania 18229. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community. The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Lehigh River	Upstream corporate limits	540	160	340
	North St (extended)	538	0	200
	Route 903	535	20	40
	West Broadway St (extended)	528	30	30
	Con Rail bridge	510	35	(1)
	Downstream corporate limits	492	0	(1)
Mauch Chunk Creek	Upstream corporate limits	731	30	20
	Bus Rd	690	120	200
	West Broadway St	670	50	120

¹ Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (39 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 21, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33300 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2382]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Borough of Kistler, Mifflin County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Kistler, Mifflin County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in iden-

tified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Kistler Fire Hall, Pine Street and Nolan Road, Kistler.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. E. Dayton Shugarts, President of the Council of Kistler, 601 Nolan Road, Kistler, Pennsylvania 17066. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Juniata River	Bloch St. (extended)	557	250	(1)
	Walnut St. (extended)	556	220	(1)
	Pine St. (extended)	556	120	(1)
	Bratton Rd. (extended)	555	165	(1)
	Southeast corporate limits	554	110	(1)

¹ Corporate limits.

PROPOSED RULES

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33188 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2386]

**APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEW**

**Proposed Flood Elevation Determinations
for Borough of Roaring Springs, Blair
County, Pennsylvania**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Roaring Springs, Blair County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to partici-

pate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Borough Office, 616 Spang Street, Roaring Springs, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable Richard Butler, Mayor of Roaring Springs, 924 Franklin Street, Roaring Springs, Pennsylvania 16673. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Cabbage Creek.....	Downstream corporate limits.....	1,195	20	25
	Bloomfield St.....	1,205	15	110
	Main St.....	1,212	10	120
	Upstream corporate limits.....	1,222	70	25

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 1, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33182 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2385]

**APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEW**

**Proposed Flood Elevation Determinations
for the Borough of Shillington, Berks
County, Pennsylvania**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Shillington, Berks County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Borough Office, Town Hall, Shillington, Pennsylvania.

Any person having knowledge, information, or wishing to make a com-

ment on these determinations should immediately notify Mr. Michael McGeary, Borough Manager of Shillington, Town Hall, Shillington, Pennsylvania 19607. The period for comment will be ninety

days following the second publication of this notice in a newspaper of local circulation in the above-named community. The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Wyomissing Creek	Upstream corporate limits	319	(1)	80
	West Elm St. (extended)	295		65
	Maple Ave. (extended)	289	(2)	165
	State St. (extended)	280	(3)	150
	Upstream corporate limits	275	(4)	170

¹ 60 feet to corporate limits.

² Corporate limits.

³ Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 4, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33181 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2422]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Borough of Sutersville, Westmoreland County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Sutersville, Westmoreland County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop cri-

teria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Post Office on Main Street, Sutersville.

Any person having knowledge, information, or wishing to make a comment on notify Mayor Walter M. Stewart, P.O. Box 377, Sutersville. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Youghiogheny River	Sutersville Highway	766		510
	Plumer St. (extended)	766		440
	Locust St. (extended)	767		290
	Upstream corporate limit	767		65
Youghiogheny River Tributary	3d Avenue	766	60	40
	1st private drive upstream of 3d Ave.	767	20	10
	2d private drive upstream of 3d Ave.	771	50	30
	3d private drive upstream of 3d Ave.	785	50	35
	1st St. (West)	832	40	30
	1st St. (East)	840	50	40
	8th Ave.	862	10	45
	Upstream corporate limits	864		15

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33299 Filed 11-12-76; 8:45 am]

PROPOSED RULES

[24 CFR Part 1917]

[Docket No. FI-2424]

APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEWProposed Flood Elevation Determinations
for Borough of Yardley, Bucks County,
Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a))), hereby gives notice of his proposed determinations of flood elevations for the Borough of Yardley, Bucks County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to par-

ticipate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review on the Bulletin Board at the Police Department, 56 South Main Street, Yardley, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable Helen H. Smith, Mayor of Yardley, Police Department, 56 South Main Street, Yardley, Pennsylvania 19067. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline to 100-yr flood boundary	
			Left	Right
Buck Creek	Confluence with Brock Creek	55	25	95
	Coldspring Rd. (extended)	56	20	50
	West corporate limits	60	150	55
	Main St.	41	175	300
	Footbridge	54	25	35
	West Afton Ave.	56	45	125
Silver Creek	Corporate limits	62	75	75
	Main St.	41	10	10
	Harper Ave. (extended)	48	55	10
	Pond Ave. (extended)	54	15	15
	Van Horn Ave. (extended)	56	50	90
	Reading Ave.	62	15	15
Delaware River	Corporate limits and Oxford Valley Rd.	68	10	10
	Corporate limits	39	(1)	1,600
	Letchworth Ave.	39	(1)	1,550
	College Ave.	40	(1)	1,400
	Maple Ave.	41	(1)	1,000
	Corporate limits	42	(1)	600

¹ Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33318 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2369]

APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEWProposed Flood Elevation Determinations
for City of Doraville, Georgia

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed de-

terminations of flood elevations for the City of Doraville, Georgia.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Doraville must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-

prone areas and the proposed flood elevations are available for review at City Hall, Doraville, Georgia 30340.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Jesse Norman, City

Hall, Doraville, Georgia 30340. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Nancy Creek	Tilly Mill Rd.	953	200	120
Nancy Creek Tributary No. 1	do.	981	110	40
Nancy Creek Tributary No. 1.1	Mill Ct.	983	45	45
Nancy Creek Tributary No. 2	Winters Chapel	981	100	70
North Fork Peachtree Creek Tributary No. 1	Pineland Ave.	954	120	30
North Fork Peachtree Creek Tributary No. 1.1	Wheeler Dr.	927	60	70
North Fork Peachtree Creek Tributary No. 2	English Oak Dr.	958	160	80

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33170 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2376]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW Proposed Flood Elevation Determinations for City of Garfield, New Jersey

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Garfield, New Jersey.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood In-

surance Program, the City of Garfield must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, Outwater Lane, Garfield, New Jersey 07026.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Frank V. Calandriello, City Hall, Outwater Lane, Garfield, New Jersey 07026. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Schroeder's Brook	Outwater La.	51	100	100
Fleischer Brook	do.	26	240	300
	Market St.	33	230	100
	Division Ave.	34	440	120
Saddle River	Marsellus Pl.	18	400	0
Passaic River	Outwater Lane	20	0	50
	Monroe St.	18	0	350
	Passaic St.	18	0	650

1 Corporate limits.

PROPOSED RULES

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33177 Filed 11-12-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2373]

**APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEW**

**Proposed Flood Elevation Determinations
for City of Gladstone, Michigan**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Gladstone, Michigan.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance

Program, the City of Gladstone must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 1100 Delta Avenue, Gladstone, Michigan 49837.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Raymond Norton, 1100 Delta Avenue, Gladstone, Michigan 49837. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width—distance along extended road from lake shore to A-zone boundary
Little Bay De Noc	6th St. (extended).....		670
	8th St. (extended).....		200
	8th St. (extended). (In Gladstone Industrial Park.)		640
	Buckeye Dr. (extended) across North Lake Shore Dr. to the Lakeshore.		344

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33174 Filed 11-12-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2379]

**APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEW**

**Proposed Flood Elevation Determinations
for City of Raleigh, North Carolina**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed

determinations of flood elevations for the City of Raleigh, North Carolina.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Raleigh must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood eleva-

tions are available for review at City Hall, 210 S. McDowell, Raleigh, North Carolina 27602.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Giles Coggins, P.O.

Box 590, Raleigh, North Carolina 27602. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Crabtree Creek	U.S. 64 ¹	200	495	180
	Lassiter Mill Rd.	220	85	400
	U.S. 70	235	800	980
Marsh Creek	Duraleigh Rd. ¹	248	90	113
	Sunnybrook Rd.	209	170	270
	Ingram Dr.	230	400	320
	Millbrook Rd.	255	155	200
New Hope Tributary to Marsh Creek	Old Wake Forest Rd.	284	370	410
	New Hope Church Rd.	252	245	135
Millbrook Tributary to Marsh Creek	Waterbury Dr.	277	65	45
	Marsh Dr.	252	30	25
Pigeon House Branch	Millbrook Rd.	271	105	430
	Wake Forest Rd.	214	280	100
	Downtown Blvd. and U.S. 1 and 401 ¹	248	46	210
	Peace St.	274	65	200
Big Branch	Hard Mont Rd.	233	110	410
	Compton Dr.	254	40	80
	Fordue St.	282	100	65
	Millbrook Rd. ¹	288	210	490
Lakemont Tributary to Big Branch	Latimer Rd.	290	55	126
Beaverdam Creek	Lassiter Mill Rd.	220	380	270
	Footland St.	220	30	20
Southwest Prong of Beaverdam Creek	Fairview Rd.	270	(²)	(²)
	Churchill Rd.	206	(²)	(²)
	Wade Ave.	221	65	20
	Cambridge Rd.	260	30	30
	Lewis Farm Rd.	304	55	95
	Churchill Rd.	316	13	220
	Wade Ave.	347	80	45
	North Hills Dr.	232	85	180
Lynn Rd. Tributary to Mine Creek	Lynn Rd.	275	255	80
	Lynn Mine Rd.	310	40	20
East Fork Mine	Long St.	307	80	22
	6 Fork Rd. ¹	313	40	40
House Creek	S.R. 2016 ¹	329	100	40
	Blue Ridge Rd. ¹	236	700	55
Hare Snipe Creek	U.S. 1, 64 ¹	248	40	245
	Rambert Dr. ¹	267	175	90
	Pleasant Grove Church Rd.	293	190	270
	Leesville Rd. ¹	301	30	0
Richland Creek	S.R. 1649 ¹	269	20	30
	S.R. 1650	299	105	10
	I-40 ¹	348	300	300
	Trinity Rd.	371	162	65
Medfield Tributary Richland Creek	I-40 ¹	335	580	80
	Trinity Rd.	365	30	55
Walnut Creek	S.R. 2551	182	(²)	1010
	Sunnybrook Rd.	190		
	Rose Lane	209	480	315
	State St.	228		
	Old Fayetteville St.	236		
	N. & S. R.R.	255	40	30
	Franklin Rd. ¹	353	200	200
	Buck Jones Rd.	383	65	104
	U.S. 70 and 401, N.C. 50	235	800	505
	Fayetteville St.	243	36	90
Rocky Branch	Boylan Dr. ¹	266	20	80
	Western Blvd.	300	30	55
	Fullen Pk R.R. ¹	317	30	90
	N.S. R.R.	185	630	(²)
Neuse River	U.S. 64 ¹	188	990	(²)
	U.S. 11	233	820	(²)
Perry Creek	SCL R.R. ¹	253	30	30
	Kitchford Rd. ¹	266	(²)	(²)
	Hunting Ridge Rd. ¹	281	235	80

¹ Downstream side of road.

² At bank.

³ Flood boundary outside study area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 1, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33180 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2389A]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**Proposed Flood Elevation Determinations for City of Schertz, Guadalupe County, Texas**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Schertz, Guadalupe County, Texas.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified

flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Raleigh must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 100 First Street, Schertz, Texas.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable Robert C. Bueker, Mayor of Schertz, City Hall, P.O. Drawer I, Schertz, Texas 78154. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Cibola Creek	Southeast corporate limits	688	275	(1)
	Zuebe St. (extended)	710	(2)	(1)
	FM 78	714	450	(1)
	West corporate limits	720	950	(1)
Dietz Creek	Doerr Lane	700	1,800	1,300
	Elbel Rd.	704	400	950
	East Live Oak Rd.	713	700	2,300
	Northwest corporate limits	721	2,500	300
East Branch Dietz Creek	do.	715	(1)	100
	do.	718	(1)	200
	do.	735	200	400
	Southeast corporate limits	738	100	200
	Northeast corporate limits	765	150	275
	Antler St.	770	100	208
	Crest Oak Lane	832	150	100
	Southwest corporate limits	840	150	100
	Northeast corporate limits			

¹ Outside corporate limits.

² Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), and amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 4, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33191 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2390]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**Proposed Flood Elevation Determinations for City of Forest Hill, Tarrant County, Texas**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a))) hereby gives notice of his proposed determinations of flood elevations for the City of Forest Hill, Tarrant County, Texas.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Hall, 6800 Forest Hill Drive, Fort Worth, Texas.

Any person having knowledge, information, or wishing to make a com-

ment on these determinations should immediately notify the Honorable Harry Purser, Mayor of Forest Hill, P.O. Box 15330, Fort Worth, Texas 76119. The period for comment will be ninety days fol-

lowing the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
South Creek.....	Upstream corporate limits (Wichita St.)	649	480	1,375
	Windy Hill Rd. (extended).....	639	470	240
	Stonewall Dr.....	636	500	320
	Independence Lane.....	631	230	150
	Forest Hill Dr.....	623	520	180
	Wagonet Dr. (extended).....	615	580	260
	Alma St (extended).....	605	410	(1)
	Anglin Rd.....	593	750	(5)
North Fork of South Creek	Upstream corporate limits (Wichita St.)	650	570	570
	Private drive.....	641	550	80
	Stonewall Dr. (extended).....	637	280	330
	Jamestown Dr. (extended).....	625	430	180
	Forest Hill Dr.....	623	520	180
	Confluence with South Creek.....	618	150	150
	Wichita St.....	649	530	550
	I-820.....	649	530	100
North Branch of North Fork	Forest Hill Circle.....	639	530	500

¹ Outside corporate limits.

⁵ Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (39 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 4, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33192 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2374]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Sunset Hills, Missouri

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Sunset Hills, Missouri.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insur-

ance Program, the City of Sunset Hills must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 10875 Sunset Hills Plaza, St. Louis, Missouri 63127.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Arthur J. De Grand, 10875 Sunset Hills Plaza, St. Louis, Missouri 63127. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Meramec River.....	Crayois Rd.....	422	(1)	5550
	State Highway 30 ¹	424		4920
	I-44.....	426	(1)	120
Tributary A.....	State Highway 30 ¹	429	90	60
Tributary B.....	do.....	424	2700	2240

¹ Flood boundary outside corporate limits.

² Downstream side of road.

PROPOSED RULES

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33175 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2389]

**APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEW**

**Proposed Flood Elevation Determinations
for City of Windcrest, Blair County, Texas**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Windcrest, Blair County, Texas.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance

Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review on the Bulletin Board in the City Hall, 8061 Midcrown, Windcrest.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable E. James Seal, Mayor of Windcrest, Windcrest City Hall, 8061 Midcrown, Windcrest, Texas 78239. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
East Branch of Belt Creek	Corporate limits	777	85	65
	Midridge Dr.	779	70	45
	Northgap Dr. (extended)	780	35	60
	Corporate limits	787	25	55
Rosillo Creek	do.	781	80	45
	Dam	793	45	110
	do.	815	40	130
	Hickory Hollow (extended)	823	110	190
Walzem Creek	Crosswind Dr.	740	20	50
	Windway Dr.	774	110	200
	Midcrown Dr.	783	125	110
	Windfield Blvd.	814	50	80
	Crestway Dr.	844	185	65
	Winding Ridge Dr.	845	80	70

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 4, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33190 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2370]

**APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEW**

**Proposed Flood Elevation Determinations
for Town of Mexico, Oxford County, Maine**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood

Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Town of Mexico, Oxford County, Maine.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance

Program, the Town must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Office, Town Building, Drawer "C", Mexico, Maine.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Raynold N. Blanchette, Town Manager of Mexico, Town Building, Drawer "C", Mexico, Maine, 04257. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Webb River.....	U.S. Route 2 Bridge.....	420	(1)	60
	Kingdom Rd. Bridge.....	430	(1)	40
	Confluence of Chase Brook.....	434	(1)	2,160
	The Falls.....	435	(1)	400
Androscoggin River...	Upstream corporate limit.....	437	(2)	800
	Dixfield-Peru Bridge.....	419	80	(1)
	Confluence of Tributary No. 2.....	422	200	(1)
	Confluence of Tributary No. 3.....	429	180	(1)
	Richards Ave (extended).....	436	10	(1)
	Ridgelyville Bridge.....	439	100	(1)
	Footbridge.....	441	100	(1)
Swift River.....	U.S. Route 2 Bridge.....	444	640	(1)
	Porter Bridge Rd (extended).....	445	600	(1)
	Dam.....	520	20	(1)
	Swift Run Bridge.....	543	140	(1)
	Confluence of Walton Brook.....	554	100	(1)
	Upstream corporate limit.....	565	2,500	(1)

¹ Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 1, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33171 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2368]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW Proposed Flood Elevation Determinations for Town of Mexico Beach, Florida

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 § 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Town of Mexico Beach.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to partic-

ipate in the National Flood Insurance Program, the Town of Mexico Beach must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, Mexico Beach, Florida 32410.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Charles E. Guilford, P.O. Box 13425, Mexico Beach, Florida 32410. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

PROPOSED RULES

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Gulf of Mexico	43d St.	12		(1)
	41st St.	12		
	38th St.	12		(1)
	34th St.	12		360
	29th St.	12		300
	25th St.	12		(1)
	21st St.	12		300
	17th St.	12		(1)
	12th St.	12		360
	9th St.	12		(1)

¹ All of road.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33163 Filed 11-12-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2377]

**APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEW**

**Proposed Flood Elevation Determinations
for Town of Montclair, New Jersey**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the Town of Montclair, New Jersey.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance

Program, the Town of Montclair must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, 647 Bloomfield Avenue, Montclair, New Jersey 07042.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Grant M. Gille, 647 Bloomfield Avenue, Montclair, New Jersey 07042. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Third River	Marquette Rd.	228	400	300
	Tributary.	344	80	70
Second River	Valley Rd.	224	70	170
	Bay St.	224	70	170
	Glen Ridge Ave.	240	130	80
	Claremont Ave.	247	220	330
	Chestnut St. ¹	275	100	30
	Central Ave. ¹	306	120	110
Nishuane Brook	Brookfield Rd.	318	400	710
	Washington Ave. ¹	216	20	170
	Madison Ave.	233	90	50
Yantaraw Brook	Draper Terr.	248	250	70
	Woodmont Ave. ¹	180	50	10

¹ Downstream side.

² Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33178 Filed 11-12-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2420]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**Proposed Flood Elevation Determinations Township of Douglass, Berks County, Pennsylvania**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Douglass, Berks County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to partici-

pate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Meeting Room, Municipal Building, R.D. 2, Boyertown, Pennsylvania 19512.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mrs. Catherine Sands, Secretary of the Board of Supervisors, Municipal Building, Boyertown, Pennsylvania 19512. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Schuylkill River	Eastern corporate limits	151	720	(1)
	LR 06101 (extended)	152	1,320	(1)
	Western corporate limits	153	1,070	(1)
Manatawny Creek	Eastern corporate limits	156	120	60
	Manatawny Drive	164	40	40
	Con Rail Bridge	172	70	20
	Douglass Drive	182	70	30
	Western corporate limits	188	140	420

¹ Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 21, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33301 Filed 11-12-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2380]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**Proposed Flood Elevation Determinations for Township of Franklin, Carbon County, Pennsylvania**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Franklin, Carbon County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to partici-

pate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Township Building, R.D. 4, Lehigh, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Reuben Kunkle, Secretary of the Board of Supervisors of Franklin, R.D. 5, Box 72A, Lehigh, Pennsylvania 18235. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

PROPOSED RULES

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Lehigh River.....	Downstream corporate limits.....	449	300	-----
	Downstream corporate limits with Weissport.....	455	60	-----
	Upstream corporate limits with Weiss- port.....	472	40	-----
	Long Run confluence.....	486	140	-----
	Upstream corporate limits.....	491	90	-----
Pohopoco Creek.....	Downstream corporate limits.....	450	-----	60
	U.S. 209.....	473	10	50
	Harry Rd.....	477	30	20
	N.E. Extension Penn Turnpike.....	478	40	10
	Bull Run confluence.....	481	70	30
	Sawmill Run confluence.....	497	40	50

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 1, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33183 Filed 11-12-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2378]

**APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEW**

**Proposed Flood Elevation Determinations
for Township of Moorestown, New Jersey**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the Township of Moorestown, New Jersey.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Pro-

gram, the Township of Moorestown must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, 40 East Main Street, Moorestown, New Jersey 08057.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor William A. Angus, Jr., 40 East Main Street, Moorestown, New Jersey 08057. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
North Branch Pennsauken Creek.....	Moorestown Pike ¹	11	(¹)	320
	Lenola Rd ²	12	(¹)	60
Stawbridge Lake.....	Pleasant Valley Rd ²	21	200	180
	Church St ²	23	120	150
	Middlesex Rd ²	34	80	320
Pompeston Creek.....	New Albany Rd ²	44	240	580
	West Maple Ave ²	54	280	140
	Garwood Rd ²	37	50	40
Swedes Run.....	Westfield Rd ²	47	300	400
	Creek Rd ²	14	80	60

¹ Outside corporate limits.

² Upstream side of road.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33179 Filed 11-12-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2387]

APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEWProposed Flood Elevation Determinations
for Township of Radnor, Delaware County,
Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Radnor, Delaware County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate

in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Radnor Township Building on the Bulletin Board, 301 Iven Avenue, Wayne, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. John Alden, President of the Board of Commissioners of Radnor, 102 Walnut Avenue, Wayne, Pennsylvania 19087. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Darby Creek	Brynmaur Ave.	208	130	140
	Goshen Rd.	214	30	130
	Brairwood Rd.	218	20	80
	Saw Mill Rd.	232	250	150
Little Darby Creek	Paper Mill Rd.	245	100	80
	W. Wayne Ave.	365	110	230
	Devon Ave.	374	160	140
	Gulph Creek Rd.	263	30	20
Gulph Creek	King of Prussia Rd.	297	50	30
	Fairview Drive	331	60	360

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 1, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33185 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2384]

APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEWProposed Flood Elevation Determinations
for Township of Springfield, Delaware
County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Springfield, Delaware County, Pennsylvania.

Under these Acts, the Administration, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order

to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review in the Lobby of the Municipal Building, 50 Powell Road, Springfield, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Russell Gramiak, President of the Board of Supervisors of Springfield, 50 Powell Road, Springfield, Pennsylvania 19064. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

PROPOSED RULES

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Darby Creek	Septa Lines RR	149		480
	State Route 1 Bypass	154		20
	Burmont Rd	159		750
Crum Creek	Chester Rd	47	100	
	Wallingford Rd	76	80	
	Baltimore Pike	84	90	
	Paper Mill Rd	88	80	
	Beatty Rd	102	50	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 4, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33186 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2383]

APPEALS FROM FLOOD ELEVATION

DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations
for Borough of Trainer, Delaware County,
Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Trainer, Delaware County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to

participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Trainer Municipal Building, 9th and Main Streets, Trainer, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. William G. Nealy, Jr., Secretary of the Board of Commissioners of Trainer, Trainer Municipal Building, 9th and Main Streets, Trainer, Pennsylvania 19013. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline to 100-yr flood boundary	
			Left	Right
Delaware River	BP Tank Farm:			
	Downstream Side of dock	0.6		170
	Upstream side of dock	0.6		30
Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Stoney Creek	Conrail	34	350	
Marcus Hook Creek	Ridge Ave	27	50	85
	Conrail	26	65	30
	Post Road	13	375	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 4, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33187 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2423]

APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEWProposed Flood Elevation Determinations
for Township of Union, Berks County,
Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Union, Berks County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to

participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Township Building, R.D. 1, Douglassville, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Nance Unuh, Secretary of the Board of Supervisors of Union, Municipal Building, R.D. 1, Douglassville, Pennsylvania. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Schuylkill River	Unionville Rd. (extended)	152	(?)	240
	Douglassville Bridge	153	(?)	0
	Con Rail Bridge	161	(?)	0
	Monocacy Rd. Bridge	165	(?)	0
Sixpenny Creek	School St.	160	100	80
	Main St.	160	50	70
	Con Rail Bridge	185	30	70
Hay Creek	Private road	352	160	150
Cold Run	Route 82 Bridge	356	200	200

¹ Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (39 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 21, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33298 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2371]

APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEWProposed Flood Elevation Determinations
for Town of Union Bridge, Carroll County,
Maryland

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Town of Union Bridge, Carroll County, Maryland.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to partici-

pate in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Hall on the window, Union Bridge, Maryland.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable Edward L. Williar, Mayor of Union Bridge, 101 South Main Street, Union Bridge, Maryland 21791. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

PROPOSED RULES

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Little Pipe Creek	Northeast corporate limits	396	530	350
	Union Bridge Rd.	395	610	365
	Western Maryland RR	395	80	190
	Locust St.	391	310	(1)
	Southwest corporate limits	390	320	420

¹ Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2880, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 1, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-33172 Filed 11-12-76; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2372]

**APPEALS FROM FLOOD ELEVATION
DETERMINATION AND JUDICIAL REVIEW**

**Proposed Flood Elevation Determinations
for Town of Walpole, Massachusetts**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Town of Walpole, Massachusetts.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insur-

ance Program, the Town of Walpole must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, Main Street, Walpole, Massachusetts 02081.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Edward T. O'Neill, Town Administrator, Main Street, Walpole, Massachusetts 02081. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Mine Brook	Robbins Rd. ¹	143	200	200
	Penn Central RR. ¹	143	100	500
	Mill Pond Rd.	147	100	100
	Penn Central RR.	151	200	400
Diamond Brook	do	136	50	50
	East St.	142	800	100
	Main St.	143	520	180
	School St.	143	475	950
	New Diamond Rd.	155	200	275
	Old Diamond Rd.	155	300	300
	New York Central RR.	155	60	60
	Stone St.	178	200	200
	Washington St.	178	925	75
	Winter St.	149		120
Cobbs Brook	Main St. ¹	143	50	50
	Condit St.	148	150	200
Bubbling Brook	Brook St.	145	400	
	North St.	203	100	
Neponset River	Washington St. ¹	99	400	100
	Plimpton St. ¹	121	200	200
	Main St.	125	0	175
	East St.	129	100	100
	Elm St.	140	50	240
	West St.	145	75	125
	Lewis Ave.	150	450	150
	South St. ¹	160	25	75
	Penn Central RR. ¹	165	170	230
	South St. ¹	184	200	200
	Neponset St.	195	400	0
	Summer St.	222	125	125
Trophole Brook	Washington St.	227	125	125
	Union St.	105	1,220	580
	Coney St. ¹	117	50	50
	Park Lane	130	80	80
	Route 1	141	100	100
Pickeral Brook	Union St.	107	1,700	100
	Pleasant St.	119	60	60
	Wolcott St.	121	200	200
School Meadow Brook	Washington St. ¹	187	150	50
	Route 1 ¹	188		225

¹ Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-33173 Filed 11-12-76; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 141]

GENERAL FOREST REGULATIONS

Trespass Settlements

OCTOBER 28, 1976.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that it is proposed to revise § 141.22 of Part 141, Subchapter M, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in sections 7 and 8 of the Act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 406 & 407), section 6 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 466), the Act of February 14, 1920 as amended by the Act of March 1, 1933 (47 Stat. 1417; 25 U.S.C. 413), Departmental Regulations (5 U.S.C. 301), and Duties of the Commissioner (25 U.S.C. 2).

The purpose of this revision is to amend direction contained therein by adding new language concerning trespass settlements when payment is less than full. This provision will empower the Area Director, acting for the Commissioner of Indian Affairs, to accept and concur with the recommended compromise settlement from the Associate, Regional or Field Solicitor, as provided in the Departmental Manual, Part 344.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed revision to the Commissioner of Indian Affairs, Attention: Director, Office of Trust Responsibilities, 1951 Constitution Ave., NW., Washington, D.C. 20245, on or before December 15, 1976.

It is proposed to revise § 141.22 of Part 141, Subchapter M, Chapter I of Title 25 of the Code of Federal Regulations to read as follows:

§ 141.22 Trespass.

(a) Federal Statutes provide that:

(1) Willful and unauthorized setting fire to timber, underbrush, or grass or other inflammable material upon any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under authority of the United States, or upon any Indian allotment while the title to the same shall be held

in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, is punishable by fine of not more than \$5,000 or imprisonment of not more than 5 years, or both.

(2) Whoever, having kindled or caused to be kindled, a fire in or near any forest timber, or other inflammable material on such lands, leaves said fire without totally extinguishing it, or permits such fire to spread beyond his control or leaves such fire unattended shall be fined not more than \$500 or imprisoned not more than 6 months, or both.

(3) The unlawful cutting or wanton injury or destruction of trees standing, growing, or being upon such lands is punishable by fine of not more than \$1,000 or imprisonment of not more than one year, or both.

(4) Section 1 of the Act of June 25, 1948 (62 Stat. 787 (18 U.S.C. 1853)), provides penalties for the unlawful cutting of timber on Government lands and on Indian lands under Government supervision.

(b) The Secretary may mark and forbid the removal of timber from restricted or trust Indian lands or direct its removal to a point of safekeeping when he has reason to believe that such timber was unlawfully cut. Any such timber that can be positively identified as Indian trust property should be sold to prevent its deterioration. When any timber cut in trespass is found to be removed to land not under Government supervision, the owner of the land should be notified that such timber is Indian trust property and any further action should be upon advice of the Office of the Solicitor of the Department of the Interior. Any timber sold under this § 141.22 may be disposed of under the provisions of this Part 141 insofar as they are applicable. The Secretary may accept payment of damages in full in the settlement of civil trespass cases without resort to court action. The Secretary may also accept a recommended settlement per SOLICITOR'S REGULATION 28 when exercised in accordance with regulations contained in 344 DM 3.

All other matters relating to the collection of debts under this section will be in accordance with Departmental Manual, Part 344.

(28 FR 12366, Nov. 22, 1963.)

RAYMOND V. BUTLER,
Acting Deputy Commissioner of
Indian Affairs.

[FR Doc.76-33542 Filed 11-12-76; 8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

GROSS INCOME; ALLOCATION AND APPORTIONMENT OF DEDUCTIONS

Notice of Proposed Rulemaking

Correction

In FR Doc. 76-32822, appearing at page 49160 in the issue for Monday, November 8, 1976, the following corrections should be made:

1. On page 49162, in the first column, in paragraph designated (4), the ninth line should be corrected to read as follows:

come" from such specific source or activ-

2. On page 49165, in the first column, immediately preceding Item (20)—Food and kindred products, insert centered over each column:

SIC major groups Manufactured categories

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Part 77]

TRAINING AND RETRAINING OF MINERS

Objections Filed and Hearing Requested

In accordance with the provisions of section 101 of the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91-173, 83 Stat. 742, 30 U.S.C. 801) and pursuant to the authority vested in the Secretary of the Interior under section 101(a) of the Act, there was published in the FEDERAL REGISTER for July 29, 1976 (41 FR 31556), a notice proposing that Part 77, Subchapter O, Chapter I, Title 30, Code of Federal Regulations be amended by adding a new Subpart U—Training and Retraining of Miners.

Interested persons were afforded a period in excess of 45 days following publication within which to submit to the Administrator, Mining Enforcement and Safety Administration, written comments, suggestions and objections to these proposed standards, stating the grounds therefor, and to request a public hearing on such objections.

Section 101(f) of the Act directs the Secretary to publish in the FEDERAL REGISTER, as soon as practicable after the period for filing such objections has expired, a notice specifying proposed mandatory safety standards to which objections have been filed and a hearing requested.

Notice is hereby given that written objections were timely filed with the Administrator, Mining Enforcement and Safety Administration, stating the grounds for objections and requesting a hearing on the proposed §§ 77.2000 through 77.2010.

Pursuant to section 101(g) of the Act, the Secretary will after publication of this notice in the FEDERAL REGISTER, issue notice of the time and place at which a public hearing will be held for the pur-

pose of receiving relevant evidence to the objections received.

Dated: November 2, 1976.

RAYMOND A. PECK, JR.,
Deputy Assistant Secretary of
the Interior.

[FR Doc. 76-33545 Filed 11-12-76; 8:45 am]

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 76-1]

FILING OF AGREEMENTS BETWEEN COPYRIGHT OWNERS AND PUBLIC BROADCASTING ENTITIES, TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERMS, ETC.

Notice of Proposed Rulemaking

Purpose. The purpose of this notice of proposed rulemaking is to advise the public that the Copyright Office of the Library of Congress is considering the adoption of new regulations designed to implement portions of Pub. L. 94-553 (90 Stat. 2541), the Act for General Revision of the Copyright Law, pertaining to the filing of agreements between copyright owners and public broadcasting entities, and to the termination of transfers and licenses covering the extended renewal term of copyright. The Copyright Office is also considering deletion of its existing regulation prohibiting the use of Office records for compiling mailing lists and the like, and technical corrective amendments to other of its regulations.

Comments. Interested persons are invited to participate in the making of the new and amended regulations by submitting such written views, arguments or other comments as they desire to the Copyright Office, Office of the General Counsel, Washington, D.C. 20559. Each person submitting comments should include his or her name and address, and give reasons for any objection or recommendation made.

Comments received on or before December 15, 1976 will be considered by the Register of Copyrights and the Librarian of Congress before taking action on the proposed regulations and amendments. Copies of all written comments received will be available for public inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office of the Copyright Office, Room No. 101, Crystal Mall Building No. 2, 2921 Jefferson Davis Highway, Arlington, Virginia.

EXPLANATION OF PROPOSED REGULATIONS AND AMENDMENTS

1. RECORDATION OF AGREEMENTS VOLUNTARILY NEGOTIATED BETWEEN COPYRIGHT OWNERS AND PUBLIC BROADCASTING ENTITIES

Under § 118(b) (2) of the first section of Pub. L. 94-553, license agreements between one or more owners of copyright in published nondramatic musical works and published pictorial, graphic, and

sculptural works, and one or more public broadcasting entities, are to be given effect in lieu of any determination by the Copyright Royalty Tribunal established under the new law, provided that "copies of such agreements are filed in the Copyright Office within thirty days of execution in accordance with regulations that the Register of Copyrights shall prescribe." Additionally, § 118(e) (1) provides for the voluntary negotiation of terms and rates of royalty payments between owners of copyright in nondramatic literary works and public broadcasting entities; these terms and rates are to be effective "upon filing in the Copyright Office, in accordance with regulations that the Register of Copyrights shall prescribe."

Under Sec. 102 of the Transitional and Supplementary Provisions of Pub. L. 94-553, these provisions became effective on October 19, 1976, the date of enactment of the new law. Accordingly, the Copyright Office proposes to open its public records to the filing of agreements between public broadcasting entities and copyright owners and to record these agreements upon payment of the appropriate fee.

It is proposed that recordation of these agreements be covered by the addition of a new § 201.9 of the regulations of the Copyright Office.

Proposed § 201.9 would establish the formal requirements governing the nature of the document to be filed for recordation. For documents submitted before January 1, 1978 the recording fee is proposed to be that provided for recordation of assignments and other papers under the present law; after January 1, 1978 the recording fee would be consistent with that provided by § 708(a) (4) of the new law. The date of recordation is proposed to be the date upon which the last element required for recordation (signed document, certification if necessary, and fee) is received in the Copyright Office.

2. TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM

Under § 304(c) of the first section of Pub. L. 94-553, the exclusive or nonexclusive grant of a transfer or license of a renewal copyright executed before January 1, 1978 is subject to termination in certain cases. Termination is effected by serving a notice of termination in writing upon the grantee or the grantee's successor in title under conditions specified in the law. Among other conditions, the notice of termination is to comply in form, content, and manner of service "with requirements that the Register of Copyrights shall prescribe by regulation." A copy of the notice of termination shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

Section 304(c) expressly refers to the possibility of terminating grants during specified periods beginning on January 1, 1978, and requires the serving of notices "not less than two or more than ten

years" before the effective date of termination. Thus, a reasonable interpretation would permit the serving of certain termination notices before January 1, 1978. Accordingly, a new § 201.10 is proposed as an addition to the regulations of the Copyright Office, to govern the form, content, manner of service, and recordation of termination notices.

The proposed new § 201.10 attempts to avoid the imposition of costly or burdensome requirements while, at the same time, giving the grantee and the public a reasonable opportunity to identify the affected grant and work from the information given in the notice. The date of recordation of a notice of termination would be the date upon which the last element required for recordation (acceptable copy of signed document and fee) is received in the Copyright Office. Until January 1, 1978 the fee for recording copies of termination notices will be that established for the recording of assignments and other papers under the current law; after January 1, 1978 the recording fee would be consistent with that provided by § 708(a) (4) of the new law.

3. USE OF COPYRIGHT OFFICE RECORDS FOR MAILING LISTS AND SIMILAR PURPOSES

Section 201.2(b) (2) of the regulations of the Copyright Office prohibits the "copying from the Copyright Office records of names and addresses for the purpose of compiling mailing lists and other similar uses." The Copyright Office has re-examined this prohibition and concluded that it is an unwarranted limitation on the public use of Office records. Accordingly, the Office proposes to delete § 201.2(b) (2) from its regulations. Upon deletion, use of Copyright Office records to compile mailing and similar lists may be made, under § 201.2(b) (1), "at such times as will not result in interference with or delay in the work of the Copyright Office."

4. TECHNICAL AMENDMENTS OF EXISTING REGULATIONS

The Copyright Office plans minor technical amendments of its existing regulations to correct the ZIP Code references in §§ 201.1 and 201.2(c) (2) (ii), and to delete the out-dated reference to "Copyright Office Form C-85" and correct the CFR citation pertaining to the use of import statements in § 201.8.

The Office also plans an addition to § 201.3 of its regulations to identify Part 14 of the Catalog of Copyright Entries.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94-553: §§ 118; 304 (c); 702; 708(11).)

PROPOSED REGULATIONS AND AMENDMENTS

In consideration of the foregoing, it is proposed to amend Part 201 of 37 CFR Chapter II, as follows:

1. By adding a new § 201.9 to read as follows:

§ 201.9 Recordation of agreements between copyright owners and public broadcasting entities.

(a) Licenses and other agreements pertaining to terms and rates of royalty payments negotiated between one or more copyright owners and one or more public broadcasting entities will be recorded in the Copyright Office upon payment of the fee prescribed by this section. The document submitted for recordation shall meet the following requirements:

(i) It shall be the original instrument of agreement; or, if the original is not available, it shall be a legible photocopy or other full-size facsimile reproduction of the original, accompanied by a statement signed by at least one of the parties to the agreement, or an authorized representative of that party, explaining why the original could not be submitted and certifying that the reproduction is a true copy;

(ii) It shall bear the signatures of all persons identified as parties to the agreement, or of their authorized agents or representatives; and

(iii) It shall be complete on its face, and shall include any schedules, appendices, or other attachments referred to in the instrument as being a part of it. After recordation the document is returned to the sender with a certificate of record.

(b) For a document consisting of six pages or less covering no more than one title, the basic recordation fee is \$5 if recorded before January 1, 1978 and \$10 if recorded after December 31, 1977; in either case an additional charge of 50 cents is made for each page over six and each title over one.

(c) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee, have been received in the Copyright Office.

2. By adding a new § 201.10 to read as follows:

§ 201.10 Notices of termination of transfers and licenses covering extended renewal term.

(a) *Form.* The Copyright Office does not provide printed forms for the use of persons serving notices of termination.

(b) *Contents.* (1) A notice of termination must include a clear identification of each of the following:

(i) The name of each grantee (or the grantee's successor in title) whose rights are being terminated, and the address at which service of the notice is being made;

(ii) The title of each work covered by the grant being terminated, the name of at least one author of each such work, and, if possible and practicable, the renewal registration number for each such work;

(iii) The date of execution of the grant being terminated, the names of persons who executed the grant, and a brief statement of the nature of the grant and the rights covered by it;

(iv) The effective date of termination; and

(v) The names and addresses of the person or persons effecting the termination. Where the termination is exercised by the successors of a deceased author, the notice shall include a brief statement of their relationship to the deceased author.

(2) Clear identification of the information specified by paragraph (b) (1) of this section requires a complete and unambiguous statement of facts in the notice itself, without reliance on information in other documents or records.

(c) *Signature.* The notice of termination shall bear the actual signatures of those persons entitled to terminate the grant under the law, or of their authorized agents.

(d) *Manner of service.* The notice of termination shall be served upon each grantee or successor whose rights are being terminated. It shall be delivered by personal service, or by first-class mail sent to an address which, after a reasonable investigation, is found to be the last-known address of the grantee or successor.

(e) *Recordation.* (i) A copy of the notice of termination will be recorded in the Copyright Office upon payment of the fee prescribed by this paragraph.

(ii) The copy submitted for recordation shall be a complete and exact duplicate of the notice of termination as served; where separate copies of the same notice were served on more than one grantee or successor, only one copy need be submitted for recordation.

(iii) For a document consisting of six pages or less, covering no more than one title, the basic recordation fee is \$5 if recorded before January 1, 1978 and \$10 if recorded after December 31, 1977; in either case an additional charge of 50 cents is made for each page over six and each title over one.

(iv) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee, have been received in the Copyright Office. After recordation the document is returned to the sender with a certificate of record.

3. By deleting § 201.2(b) (2) and reserving the number as follows and by revising (b) (1) as follows:

§ 201.2 Information given by the Copyright Office.

(b) *Inspection and copying of records.*

(1) Inspection and copying of completed records and indexes relating to a registration or a recorded document, and inspection of copies deposited in connection with a completed copyright registration, may be undertaken at such times as will not result in interference with or delay in the work of the Copyright Office.

(2) [Reserved]

§§ 201.1 and 201.2 [Amended]

4. By amending §§ 201.1 and 201.2(c) (2) (ii) to delete the ZIP Code identifica-

tions "20540" and to insert the ZIP code identifications "20559" after the words "Washington, D.C." in the addresses for the Register of Copyrights.

§ 201.3 [Amended]

5. By amending § 201.3 to add the following clause at the end of the section: "Part 14—Sound Recordings, \$10."

6. By revising § 201.8(b) to read as follows:

§ 201.8 Import Statements.

(b) The provisions in the Customs regulations covering the use of the import statement are found in 19 CFR 133.45.

Dated: November 8, 1976.

BARBARA RINGER,
Register of Copyrights.

Approved by:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.76-33820 Filed 11-12-76;8:45 am]

POSTAL SERVICE

[39 CFR Part 111]

OFFICIAL MAIL

Contractor Use; Extension of Comment Period

This notice extends the period for comments to the notice, published October 6, 1976 (41 FR 44059), proposing to establish a procedure for licensing certain contractors to use official envelopes and labels when using the mails to submit information for official purposes or to carry out official business of a Government agency.

The Department of the Army requested that the comment period, which expired on November 8, 1976, be extended to December 8, 1976, because of the extensive impact on contract administration throughout the Army and the need for referral of the proposal to field commands. An office in the Department of Defense also requested an extension of time into January 1977.

In view of the importance of this proposal to the Department of Defense and its constituent departments, as well as other Federal agencies, we have found it advisable to extend the comment period. However, we believe an extension through the Christmas holidays into early 1977 is not justified. Accordingly, the comment period is hereby extended to December 20, 1976.

Comments should be addressed, as before, to the Manager, Government Revenue and Examination Branch, Finance Department, United States Postal Service, Washington, D.C. 20260.

(39 U.S.C. 401)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.76-33527 Filed 11-12-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSB-1 Notice 1]

WALKWAYS ON RAILROAD BRIDGES, TRESTLES, AND SIMILAR STRUCTURES

Advance Notice of Proposed Rulemaking

The Federal Railroad Administration (FRA) is studying the need for a Federal regulation to require walkways on railroad bridges, trestles and similar structures. The purpose of this Notice is to solicit views and comments from the public as to the necessity, cost and benefit to be derived from Federal regulation in this area.

BACKGROUND INFORMATION

On July 15, 1975, the Railway Labor Executives Association (RLEA) filed a rulemaking petition requesting that FRA issue a regulation "to require that all railroad bridges, trestles and similar structures used by trains and switching movements on all railroads in the United States have safe walkways placed along them" (FRA Rulemaking Petition 75-5).

The FRA is aware that, during the past few months, the Association of American Railroads (AAR) and the RLEA have conducted a series of discussions concerning the possibility of concluding a labor-management agreement on the walkways question. The FRA believes that the encouragement of such attempts on the part of railroad labor and management to address industry problems and develop industry solutions in lieu of Federal regulation is in keeping with the policies of the Secretary of Transportation concerning regulatory reform. For this reason, the FRA has withheld the issuance of a notice in response to this rulemaking petition.

When it became apparent that such a solution would not be concluded, the RLEA filed another petition once again requesting the issuance of a regulation "to require walkways on all bridges, trestles and similar structures on all railroads in the United States" (FRA Rulemaking Petition 76-5). Therefore, the FRA is proceeding with the publication of this advance notice of proposed rulemaking.

In its petitions RLEA asserts that the safety of railroad employees is placed in serious jeopardy by the lack of walkways on many railroad bridges, trestles and similar structures throughout the nation. Because of air brake defects, equipment malfunctions and derailments, trains frequently stop on these structures. Whenever this occurs, railroad operating employees need walkways as a safe, convenient means of access so that they can promptly locate the problem and take appropriate corrective action. RLEA argues that the removal of roof running boards and end ladders from boxcars and similar cars and the growing use of "piggyback" cars makes

it extremely difficult for employees to use the consist of the train to provide such access. In these circumstances, it is extremely dangerous, difficult and time consuming for railroad employees to locate and correct the problem. RLEA also contends that the safety of trackmen, signalmen and other employees whose duties require that they work on or cross over such structures, requires walkways to provide them with a place to stand clear of trains and switching movements.

As part of its study, FRA reviewed its accident files. This review revealed that during the past three years, a total of eight railroad employees were killed as a result of falls from bridges or being struck by moving equipment while on bridges. In addition, FRA assessed State regulatory activity with respect to walkways on railroad bridges and trestles. Of the 15 States contacted in a representative cross-sectional sampling, six states were found to have statutes or regulations on this subject. These statutes and regulations vary widely. Some merely authorize a State agency to require walkways; others require walkways on bridges built after a certain date. Some prescribe detailed specifications for walkways; others are more general. Some require walkways on bridges where specific operating conditions are present such as at locations where switching is frequently performed or near the entrance of a yard.

PUBLIC PARTICIPATION REQUESTED

FRA believes that additional information is required concerning the necessity for, the cost of, and the benefits to be derived from, a Federal regulation requiring walkways on railroad bridges, trestles and similar structures. FRA solicits written comments from the public, particularly from individual States, the railroad industry and railroad employee organizations.

Specific advice is requested on the following points:

1. What has been the railroad employee accident experience on railroad bridges, trestles and similar structures during the past ten years? How many employee fatalities and injuries resulted?

(a) How many of these fatalities and injuries would have been prevented by the presence of walkways?

(b) What means other than walkways are available to protect the safety of employees? How costly and effective are they?

2. Should FRA develop regulations to require walkways with handrail on railroad bridges, trestles and similar structures? What alternatives to this course of action should also be considered? How costly and effective would they be?

3. How many miles of railroad bridges, trestles and similar structures are there in the United States?

(a) How many miles have a walkway with handrail on only one side of the structure?

(b) How many miles have walkways with handrail on both sides of the structure?

(c) How many miles have one or more walkways between tracks?

4. How many miles of bridges, trestles and similar structures are located inside yards or within two track miles of a yard?

(a) How many miles have a walkway with handrail on only one side of the structure?

(b) How many miles have walkways with handrail on both sides of the structure?

(c) How many miles have one or more walkways between tracks?

5. Excluding those listed in response to question No. 4, how many miles of bridges, trestles and similar structures are located within two track miles of a switch, hotbox detector or dragging equipment detector?

(a) How many miles have a walkway with handrail on only one side of the structure?

(b) How many miles have walkways with handrail on both sides of the structure?

(c) How many miles have one or more walkways between tracks?

6. What construction standards for walkways and handrails are necessary to assure the safety of employees? How wide should walkways be? How close should the edge of a walkway be to a track? Should a handrail be required on all walkways except those located between tracks? Should the construction standards for walkways and handrails on new bridges differ from those on existing bridges, trestles and other structures? How should they differ?

7. Should walkways on one or both sides of the structure or between tracks be required on all new structures?

(a) What would be the resulting cost?

(b) How effective would this be in reducing employee accidents and casualties?

(c) What would be the impact on railroad operations?

(d) How many new structures are constructed each year?

8. Should walkways on one or both sides of the structure or between tracks be required to be installed on existing structures when they are rebuilt or their deck is renewed?

(a) What would be the resulting cost?

(b) How effective would this be in reducing employee accidents and casualties?

(c) What would be the impact on railroad operations?

(d) How many existing structures are rebuilt, or decks renewed each year?

9. Should walkways on one or both sides, or between tracks, be required only on structures inside or within two track miles of a yard?

(a) What would be the resulting cost?

(b) How effective would this be in reducing employee accidents and casualties?

(c) What would be the impact on railroad operations?

(d) How long a period should railroads be allowed to bring all such structures into compliance with this requirement?

10. Should walkways on one or both sides of the structure or between tracks be required on all railroad bridges, trestles and similar structures?

(a) What would be the resulting cost?

(b) How effective would this be in reducing employee accidents and casualties?

(c) What would be the impact on railroad operations?

(d) How long a period should railroads be allowed to bring all such structures into compliance with this requirement?

Communications should identify the docket number and notice number and be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before January 14, 1977, will be considered by FRA in development of regulations to be proposed in a future notice. Comments received after that date will be considered insofar as practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C.

(45 U.S.C. 431 and § 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).)

Issued in Washington, D.C. on November 9, 1976.

ASAPH H. HALL,
Administrator.

[FR Doc.76-33512 Filed 11-12-76;8:45 am]

[49 CFR Part 268]

[FRA Economic Doc. 5; Notice 2]

COMMON CARRIERS BY RAILROAD

Regulations Governing Proposed Transactions Submitted to the Secretary of Transportation; Extension of Comment Period

This notice extends the period for comments to the notice, published October 13, 1976 (41 FR 44954 et seq.), proposing regulations governing the pro-

cedures to be used by railroads in submitting railroad merger and consolidation proposals to the Federal Railroad Administrator under section 5(3)(f) of the Interstate Commerce Act, 49 U.S.C. 5(3)(f). Interested persons or organizations were invited to participate in the development of these regulations by the submission of written data, views, or comments on or before November 12, 1976.

The Association of American Railroads ("AAR") by letter dated November 5, 1976, has requested the FRA to extend the deadline for the submission of comments to November 26, 1976. The AAR requests the extension to prepare a filing based on a complete, industry-wide review of the proposed regulations.

The FRA believes that the AAR request provides sufficient justification for a two-week extension of the comment period. Interested persons or organizations may participate in the development of these regulations by submitting written data, views, or comments to the Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments received on or before November 26, 1976, will be considered by the FRA before taking final action on the proposed regulations. All comments received will be available for examination at any time during regular working hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Dated: November 5, 1976.

ASAPH H. HALL,
Administrator,
Federal Railroad Administration.

[FR Doc.76-33541 Filed 11-12-76;8:45 am]

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Application No.	Applicant	Regulation(s) affected	Nature of application
4631-X	Energy Sciences & Consultants, Inc., Biwabik, Minn.	49 CFR 173.182(c), 173.304(a)	To renew SP 4631 authorizing shipment of nitro carbo nitrate and anhydrous ammonia in nonDOT specification hopper-type tank trucks and cargo tank trailers. (Mode 1.)
4684-X	Honeywell, Inc., Minneapolis, Minn.	49 CFR 173.202, 173.206	To renew and amend SP 4684 authorizing shipment of liquid sodium and potassium in nonDOT specification containers. (Modes 1, 2, 5.)
4760-X	Gardner Cryogenics, Bethlehem, Pa.	49 CFR 173.315(a)(1)	To renew SP 4760 authorizing shipment of liquefied helium in nonDOT specification cargo tanks. (Mode 1.)
4845-X	Graviner Ltd., Coinbrook Slough, Bucks, England.	49 CFR 173.306	To renew SP 4845 authorizing shipment of nonDOT specification cylinders containing bromochlorodifluoromethane. (Modes 1, 2.)
4897-X	Hercules, Inc., Wilmington, Del.	49 CFR 173.336(a)(3)	To renew SP 4897 authorizing shipment of liquid nitrogen tetroxide in DOT specification 110A500W stainless steel tanks. (Modes 1, 2.)
4932-X	Federal Laboratories Inc., Saltsburg, Pa.	49 CFR 173.385	To renew and amend SP 4932 authorizing shipment of tear gas devices individually packaged in nonDOT specification containers. (Modes 1, 2, 4.)
5018-X	Hercules, Inc., Wilmington, Del.	49 CFR 173.336(a)	To renew SP 5018 authorizing shipment of nitrogen tetroxide in compliance with sec. 173.336(a)(3) except each valve opening is made gas tight by use of screw plugs or caps. (Modes 1, 2.)
5122-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314(c)	To renew SP 5122 authorizing shipment of hexafluoroacetone in DOT specifications 106A500X and 110A500W multiunit tank car tanks. (Modes 1, 2.)
5186-X	Liquid Carbonic Corp., Chicago, Ill.	49 CFR 173.315(a)(1)	To renew SP 5186 authorizing shipment of liquefied carbon monoxide in nonDOT specification cargo tanks. (Mode 1.)
5196-X	Ethyl Corp., Baton Rouge, La.	49 CFR 173.315	To renew SP 5196 authorizing shipment of liquefied ethylene in nonDOT specification cargo tanks. (Mode 1.)
5337-X	Mallinckrodt, Inc., St. Louis, Mo.	49 CFR 173.299(a)	To renew SP 5337 authorizing shipment of liquid etching acid in a DOT specification 2SL polyethylene container overpacked in a DOT Specification 37M steel drum. (Modes 1, 2, 3.)
5365-X	Sunolin Chemical Co., Claymont, Del.	49 CFR 173.315(a)	To renew SP 5365 authorizing shipment of liquefied ethylene in modified DOT specification MC-331 cargo tanks. (Mode 1.)
5372-X	Airco Industrial Gases, Murray Hill, N.J.; Air Products & Chemicals, Allentown, Pa.	49 CFR 173.301(d), 173.202(a)(1), 173.304(a)(2)	To renew SP 5372 authorizing shipment of compressed gases, identified to the Bureau, in modified DOT specification 3AAX cylinders. (Modes 1, 3.)
5403-X	B. J. Hughes, Inc., Midland, Tex.	49 CFR 173.119(d), 173.245(a)(31), 173.263(a)(10)	To renew SP 5403 authorizing shipment of inhibited hydrochloric acid and acid mixtures, inhibited hydrochloric acid and hydrofluoric acid, and flammable liquids with FP above 20° F. and vapor pressure not over 16 psia in nonDOT specification cargo tanks. (Mode 1.)
5414-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315(a)(1)	To renew SP 5414 authorizing shipment of liquefied ethylene in nonDOT specification portable tanks. (Mode 1.)
5482-X	Aeroquip Corp., Van Wert, Ohio	49 CFR 173.304(a)	To renew SP 5482 authorizing shipment of dichlorodifluoromethane or monochlorodifluoro methane in bendable hose assemblies. (Modes 1, 2.)
5701-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.268(b)(3)	To renew SP 5701 authorizing shipment of nitric acid in a modified DOT specification MC-312 cargo tank made of titanium annealed metal. (Mode 1.)
5767-X	DuBois Chemicals, Cincinnati, Ohio	49 CFR 173.245, 173.263, 173.272(f), 173.277	To renew SP 5767 authorizing shipment of hydrochloric acid not over 32 pct strength, sulfuric acid not over 95 pct strength, and corrosive liquids, n.o.s. identified to the Bureau, in a nonDOT specification portable tank. (Modes 1, 2.)
5852-X	Gas, Inc., Lowell, Mass.	49 CFR 173.315	To renew SP 5852 authorizing shipment of liquefied methane in nonDOT specification aluminum cargo tanks. (Mode 1.)
5883-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.354(c)	To renew and amend SP 5883 authorizing shipment of solid or semisolid residual motor fuel antiknock compound including rust, scale, or other contaminants in nonDOT specification steel tanks. (Modes 1, 2.)
6016-X	Airco Welding Products, Springfield, N.J.	49 CFR 173.315	To renew SP 6016 authorizing shipment of nonflammable cryogenic gases in nonDOT specification cryogenic portable tanks. (Mode 1.)
6066-X	Union Carbide Corp., Bound Brook, N.J.	46 CFR 98.35	To amend SP 6066 to authorize shipment of a combustible liquid, primarily amyl alcohol, in nonDOT specification portable tanks. (Mode 3.)
6113-X	Providence Gas Co., Providence, R.I.; Gas, Inc., Lowell, Mass.; Fitchburg Gas & Electric Co., Boston, Mass.	49 CFR 173.315(a)(1)	To renew SP 6113 authorizing shipment of methane, ethylene, ethane or liquefied petroleum gas in nonDOT specification cargo tanks. (Mode 1.)
6121-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.21, 173.119(a)	To renew SP 6121 authorizing shipment of chloroprene loaded at a temperature of approximately 12° F. or less in DOT specifications 115A60W1 and 115A60W6 tank car tanks. (Mode 2.)
6165-X	Lehigh Valley Chemical Co., Easton, Pa.	49 CFR 173.272(g)	To renew SP 6165 authorizing shipment of sulfuric acid in DOT specification 6D/2S or 2SL packaging. (Modes 1, 2, 3.)
6231-X	Petrolite Corp., Barnsdall, Okla.	49 CFR 173.314	To renew SP 6231 authorizing shipment of liquid ethylene in DOT specification 113C120W tank cars. (Mode 2.)
6232-X	McDonnell Douglas Corp., St. Louis, Mo.	49 CFR 172.101, 173.108, 173.176	To amend E 6232 to allow shipment by cargo vessel. (Modes 1, 4.)
6253-X	Luther GMBH & Co., Braunschweig, Germany.	49 CFR 173.119, 173.125, 173.245, 173- 247, 173.266, 173.294	To add Cheminova A/S, Linavig/Denmark as a party to and amend by adding 0,0 dimethyl-thiophosphoryl-chloride to E 6253 and to renew the exemption. (Modes 1, 2, 3.)
6253-X	Mobay Chemical Corp., Pittsburgh, Pa.	do	To renew and amend E 6253 by increasing the size of the container. (Modes 1, 2, 3.)
6260-X	Amtrol, Inc., West Warwick, R.I.	49 CFR 173.302(a)(1), 173.402(a)(2)	To renew SP 6260 authorizing shipment of compressed air or nitrogen in nonDOT specification single-trip tanks. (Modes 1, 2, 3.)
6263-X	do	49 CFR 173.302(a)(1)	To renew SP 6263 authorizing shipment of compressed air or nitrogen in nonDOT specification welded cylindrical or spherical steel tanks. (Modes 1, 2.)
6299-X	Acety-Arc, Inc., Paducah, Ky.	49 CFR 173.315	To renew SP 6299 authorizing shipment of liquid oxygen, argon, and nitrogen in nonDOT specification portable tanks. (Mode 1.)
6349-X	Air Products & Chemicals, Allentown, Pa.	do	To renew SP 6349 authorizing shipment of liquefied helium and liquefied hydrogen in nonDOT specification portable tanks. (Modes 1, 2, 3.)
6418-X	Dow Chemical Co., Pittsburgh, Calif.	49 CFR 173.357(b)	To renew E-6418 authorizing shipment of chloropierin mixtures in DOT specification MC-303, MC-304, MC-306 or MC-307 cargo tanks. (Mode 1.)
6434-X	Mobil Chemical Co., Richmond, Va.	49 CFR 173.377(i)(1)	To renew SP 6434 authorizing shipment of dry organic phosphate compound mixtures in nonDOT specification 5-ply paper bags. (Modes 1, 2.)
6530-X	Industrial Gas Division, Chemetron Corp., Chicago, Ill.	49 CFR 173.302(c)	To renew SP 6530 authorizing shipment of hydrogen or hydrogen mixed with helium, argon or nitrogen in DOT specification 3A, 3AA, 3AX or 3AAX cylinders and to amend it by removing requirement that cylinders manufactured from intermediate manganese steel be normalized and those manufactured from chrome moly steel be quenched and tempered. (Modes 1, 2.)
6531-X	Taveco, Inc., Chatsworth, Calif.	49 CFR 173.302(a)	To renew SP 6531 authorizing shipment of nitrogen or air -60° F dryness in nonDOT specification cylinders. (Modes 1, 2, 4, 5.)
6536-X	Philadelphia Gas Works, Philadelphia, Pa.; Chemical Leaman Tank Lines Inc., Dowingtown, Pa.	49 CFR 173.315(a)(1)	To renew SP 6536 authorizing shipment of liquefied natural gas in nonDOT specification aluminum cargo tanks. (Mode 1.)
6538-X	Wonder Corp. of America, Stamford, Conn.	49 CFR 173.304(d), 173.33	To renew SP 6538 authorizing shipment of butane in nonDOT specification inside metal containers. (Modes 1, 3.)
6554-X	Betz Laboratories, Trevose, Pa.; Dear- born Chemical (United States) Chemical Corp., Lake Zurich, Ill.	49 CFR 173.154, 173.217	To renew E 6554 authorizing shipment of dry oxidizing materials, identified to the Bureau, in single-trip, molded, open-head, polyethylene containers without overpack. (Modes 1, 2.)
6561-X	Olin Chemical Group, Stamford, Conn.	49 CFR 173.279	To renew SP 6561 authorizing shipment of hydrazine solution in a DOT specification 2E bottle overpacked in a DOT specification 12B box. (Modes 1, 2.)

Application No.	Applicant	Regulation(s) affected	Nature of application
6598-X	Dow Chemical Co., Midland, Mich.	49 CFR 173.245(a)	To renew SP 6598 authorizing shipment of vinyl benzyl chloride in an inside polyethylene container overpacked by DOT specification 6D container. (Modes 1, 2.)
6611-X	Gardner Cyrogenics, Bethlehem, Pa.; Phillips Petroleum Co., Bartlesville, Okla.	49 CFR 173.315(a)	To renew SP 6611 authorizing shipment of liquid helium in nonDOT specification portable tanks. (Modes 1, 3.)
6662-X	Hercules, Inc., Wilmington, Del.; Pennwalt Corp., Lucidol Division, Buffalo, N.Y.	49 CFR 173.154, 173.401 (a)(1)	To renew SP 6662 authorizing shipment of dicumyl peroxide and VULCUP-R in molten form in DOT specification 57 portable tanks. (Modes 1, 3.)
6670-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.301(d), 173.302	To renew SP 6670 authorizing shipment of tetrafluoromethane in DOT specification 3A, 3AA, 3AX cylinders interconnected by manifolding in compliance with 173.301. (Mode 1.)
6700-X	Hooker Chemicals and Plastic Corp., Niagara Falls, N.Y.	49 CFR 173.247	To amend E 6700 to authorize use of Container Corp. of America's self-supporting polyethylene Del Drum 55 for thionylchloride. (Modes 1, 2, 3.)
6701-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 172.101, 173.314	To renew SP 6701 authorizing shipment of hexafluoropropylene oxide in DOT specification 110A500-W tanks. (Modes 1, 2.)
6704-X	Dow Chemical Co., Midland, Mich.	49 CFR 173.245a, 173.249, 173.253, 173.294, 173.340, 173.343	To renew SP 6704 authorizing shipment of corrosive liquids, identified to the Bureau, in a cargo tank fabricated from monel 400 instead of type 316 stainless steel but otherwise complying with DOT specification MC-312 cargo tank. (Mode 1.)
6728-X	Diamond Shamrock Corp., Cleveland, Ohio	49 CFR 171.6(b)(1), 173.314(c) note 12	To renew SP 6728 authorizing shipment of chlorine in less than prescribed quantity in DOT specification 105A500W tank car tanks. (Mode 2.)
6757-X	Degussa, Frankfurt, Germany	49 CFR 173.266(f)(2)	To renew E-6757 authorizing shipment of hydrogen peroxide in non-DOT specification aluminum portable tanks. (Modes 1, 3.)
6794-X	FCX, Inc., Raleigh, N.C.	49 CFR 173.358, 173.359	To renew SP 6794 authorizing shipment of parathion, methyl parathion and other liquid organic phosphate mixtures containing these materials, specifically identified to the Bureau, in non-DOT specification twin tanks. (Mode 1.)
6798-X	Allied Chemical, Morristown, N.J.	49 CFR 173.164(a)	To amend E 6798 to authorize shipments by rail. (Modes 1, 2.)
6810-X	U.S. Department of Interior, Bureau of Mines, Amarillo, Tex.	49 CFR 173.302	To renew SP 6810 authorizing shipment of helium in DOT specification 107A seamless steel tubes except not mounted on a rail car. (Mode 1.)
6834-X	PMC Corp., Philadelphia, Pa.	49 CFR 173.245(a)(4)	To renew SP 6834 authorizing shipment of phosphoric acid in DOT specification 5 drums. (Mode 1.)
6838-X	Douglas Aircraft Co., Long Beach, Calif.	49 CFR 173.108(a)	To amend E 6838 to authorize reshipment by other persons and shipment by water. (Modes 1, 3, 5.)
6864-X	Contrans, Hamburg, West Germany	49 CFR 173.119(b), 173.125(a)	To renew SP 6864 authorizing shipment of flammable liquids, identified to the Bureau, in nonDOT specification stainless steel portable tanks. (Modes 1, 2, 3.)
6868-X	Dow Chemical Co., Midland, Mich.	49 CFR 173.272(f)(22)	To renew SP 6868 authorizing shipment of sulfuric acid in DOT specification 105A300W tank car tanks in exclusive use service. (Mode 2.)
6879-X	Oxy Metal Industries Corp., Morenci, Mich.	49 CFR 173.245(a)	To renew SP 6879 authorizing shipment of corrosive liquids not corrosive to steel and identified to the Bureau in certain DOT specification 5 series drums. (Modes 1, 2.)
6909-X	Dow Chemical Co., Midland, Mich.	49 CFR 173.253(a)	To renew SP 6909 authorizing shipment of chloroacetyl chloride in DOT specification MC-310, MC-311 and MC-312 tank motor vehicles fabricated from 99-percent pure nickel. (Mode 1.)
6925-X	Economics Laboratory, Inc., St. Paul, Minn.	49 CFR 173.245, 173.249, 173.277	To renew and amend SP 6925 authorizing shipment of corrosive liquids, identified to the Bureau, in non-DOT specification polyethylene bottles. (Modes 1, 2, 3.)
6927-X	Westwälder Eisenwerk, Welfefeld, West Germany	49 CFR 173.553	To amend SP 6927 by providing for certain tank attachments and baffle modifications. (Modes 1, 3.)
6948-X	Cotton States Chemical Co., West Monroe, La.	49 CFR 173.358, 173.359	To renew E 6948 authorizing shipment of parathion, methyl parathion, and other organic phosphate compounds and mixtures thereof, identified to the Bureau, in DOT specification 51 portable tanks. (Mode 1.)
6951-X	HTL Industries, Inc., Monrovia, Calif.	49 CFR 173.302	To renew and amend SP 6951 to authorize shipment of compressed air, nitrogen or oxygen in modified DOT specification 3E cylinders. (Modes 1, 2, 3, 4, 5.)
6971-X	Chem Service, Inc., West Chester, Pa.	49 CFR 173.286(b), 172.400	To amend E 6971 to permit shipment of chemical kits without labeling. (Modes 1, 2, 3, 4.)
6984-X	Hercules, Inc., Wilmington, Del.	49 CFR 173.66(g), 173.103(a), 177.835(g)(2)(i)	To renew SP 6984 authorizing shipment of electric blasting caps, without an outside DOT specification container, overpacked in an IME standard 22 container. (Mode 1.)
6995-X	Alyn Transportation, Los Angeles, Calif.	49 CFR 173.245(a)(20), (31)	To renew SP 6995 authorizing shipment of phosphoric acid and solutions thereof in DOT specifications MC-303 and MC-306 tank motor vehicles. (Mode 1.)
7020-X	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CFR 173.154(a)(15)	To renew SP 7020 authorizing shipment of sodium chlorate mixture (cotton defoliant), dry, in bulk rail cars or motor vehicles prescribed in § 173.163(a)(7). (Modes 1, 2.)
7026-X	Hydraulic Research Corp., Pacoima, Calif.	49 CFR 173.304(a)(1), 178.47	To renew and amend SP 7026 by authorizing a service pressure increase for the spherical pressure vessels. (Modes 1, 4, 5.)
7037-X	Air Transport Association of America, Washington, D.C.	49 CFR 173.34(e)(13) (iii)	To renew an amend SP 7037 to extend the service life of DOT specification 3HT cylinders to 17 years. (Modes 1, 4, 5.)
7041-X	Ethyl Corp., Baton Rouge, La.	49 CFR 173.134(a)(6)	To renew SP 7041 authorizing shipment of pyroforic waste material (triethyl aluminum) in a non-DOT specification cargo tank. (Mode 1.)
7059-X	Oxford Chemicals, Atlanta, Ga.	49 CFR 173.245b(a)(6)	To renew SP 7059 authorizing shipment of corrosive solids, identified to the Bureau, in plastic drums or pails not exceeding 80 lb. net weight and not over 7 gal. capacity. (Modes 1, 2.)
7062-X	Bennett Industries, Pacoima, Calif.	49 CFR 173.245, 173.249, 173.250a, 173.257, 173.263, 173.265, 173.266, 173.272, 173.277, 173.287, 173.289, 173.292, 178.19	To amend E 7062 to allow shipment by water also, of certain corrosive liquids in a nonDOT specification polyethylene container. (Modes 1, 2, 3.)
7067-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315	To renew E 7067 authorizing shipment of dichlorodifluoromethane in British made portable tanks. (Modes 1, 3.)
7077-X	do	49 CFR 173.315(a)(1)	To renew SP 7077 authorizing shipment of compressed gases, identified to the Bureau, in nonDOT specification 180 portable tanks. (Modes 1, 3.)
7082-X	Igloo Corp., Houston, Tex.	49 CFR 173.276	To amend E 7082 by adding the commodity hydrazine. (Modes 1, 2, 3.)
7094-X	Jefferson Chemical Co., Houston, Tex.	49 CFR 172.101	To renew E 7094 authorizing deviation from stowage requirements for shipment of corrosive liquids aboard vessels. (Mode 3.)
7210-X	Amway Corp., Ada, Mich.	49 CFR 173.302	To renew USCG SP 8-75 (E 7210) authorizing shipment of consumer commodities packaged in excepted quantities to be shipped by water without marking the technical name on the package. (Mode 3.)
7222-X	Richard Eaton, Bethesda, Md.	49 CFR 173.260(d)	To renew E 7222 authorizing the applicant to offer for transportation by air as carry-on baggage, electric storage batteries in connection with a self-propelled wheelchair. (Mode 5.)
7250-X	Intercontinental Transport (ICT) BV, Rotterdam, Nederland.	49 CFR subpt. 176	To renew USCG SP 20-75 (E 7250) authorizing stowage and segregation of hazardous materials on board vessels in accordance with the International Maritime Dangerous Goods Code. (Mode 3.)
7261-X	Monsanto Co., St. Louis, Mo.	49 CFR 173.190(d)	To renew E 7261 authorizing shipment of dry white or yellow phosphorus in non-DOT specification storage tanks. (Mode 2.)
7275-X	Express Airways, Inc., Mojave, Calif.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1)	To amend E 7275 authorizing shipment of certain explosives by cargo aircraft, by allowing commercial shipments also. (Mode 4.)

Application No.	Applicant	Regulation(s) affected	Nature of application
Parties to an Exemption			
2787-P	Raytheon Co., Andover, Mass.	49 CFR 173.54(a), 173.93(a)	To become a party to E 2787 authorizing shipment of hydraulic accumulators charged with nitrogen. (Modes 1, 2, 3, 4.)
3744-P	Van Waters & Rogers, San Francisco, Calif.	49 CFR 173.206(b)(7)	To become a party to E 3744 authorizing shipment of hydrogen peroxide in DOT specification 28L/21P containers. (Modes 1, 2.)
4289-P	The Boeing Co., Seattle, Wash.	49 CFR 173.304(a)(2)	To become a party to SP 4289 authorizing shipment of compressed gases identified to the Bureau, in modified DOT specification 4D containers. (Modes 1, 2, 4.)
4554-P	El Paso Products Co., Odessa, Tex.	49 CFR 173.315(a)(1)	To become a party to SP 4554 authorizing shipment of liquefied ethylene in modified DOT specification MC-331 cargo tanks. (Mode 1.)
4586-P	FMC Corp., Philadelphia, Pa.	49 CFR 173.247(a), 173.271(a)	To become a party to E 4586 authorizing shipment of corrosive liquids identified to the Bureau, in DOT specification 6D/2SL containers. (Modes 1, 2, 3.)
4850-P	Baroid Petroleum Services, Houston, Tex.; Halliburton Co., Duncan, Okla.	49 CFR 173.100(cc)	To become a party to E 4850 authorizing shipment of metal clad flexible linear shaped charges in wooden or fiberboard boxes in compliance with sec. 173.104. (Modes 1, 2.)
5242-P	IMC Chemical Group, Inc., Boston, Mass.	49 CFR 173.266	To become a party to SP 5242 authorizing shipment of hydrogen peroxide in a DOT specification 34 container without overpack. (Mode 3.)
5248-P	The Boeing Co., Seattle, Wash.; Monsanto Co., St. Louis, Mo.	49 CFR 173.389(g)	To become a party to E 5248 authorizing shipment of radioactive materials in any approved outer type A packaging as prescribed in secs. 173.389(j) and 173.394(a) with an additional plastic overwrap or equivalent. (Modes 1, 2, 4, 5.)
5456-P	Allied Chemical, Morristown, N.J.	49 CFR 173.245, 173.247, 173.263, 173.268, 173.269, 173.272, 173.349	To become a party to E 5456 authorizing shipment of liquid phenol, antimony pentachloride and any corrosive liquid for which the DOT specification 1D or 1K is prescribed in a non-DOT specification glass carboy overpacked in a polystyrene drum. (Modes 1, 2, 3.)
5690-P	Energy Sciences & Consultants, Inc., Biwabik, Minn.	49 CFR 173.182(e)	To become a party to E 5690 authorizing transportation of nitro carbo nitrate in a DOT specification 44P plastic bag. (Modes 1, 2.)
5736-P	El Paso Products Co., Odessa, Tex.	49 CFR 173.314	To become a party to SP 5736 authorizing shipment of liquefied ethylene in DOT specification 113C120W tank car tanks. (Mode 2.)
6228-P	Airco Welding Products, Springfield, N.J.	49 CFR 173.301(d)	To become a party to SP 6228 authorizing shipment of acetylene in a unit consisting of manifolded DOT specification 8 or 8AL cylinders. (Mode 1.)
6253-P	Ventron Corp., Beverly, Mass.; Puerto Rico Marine Management, Elizabeth, N.J.	49 CFR 173.119, 173.125, 173.245, 173.247, 173.266, 173.294	To become a party to E 6253 and to amend it by adding a solution of sodium borohydride in sodium hydroxide in non-DOT specification portable tanks. (Modes 1, 2, 3.)
6296-P	Olin Chemicals Group, Stamford, Conn.	49 CFR 173.377(g)	To become a party to E 6296 authorizing shipment of dry organic phosphate condensed mixtures in DOT specification 44D bags. (Modes 1, 2.)
6307-P	Pennwalt Corp., Philadelphia, Pa.	49 CFR 173.346(a)	To become a party to E 6307 authorizing shipment of class B poisonous liquids, identified to the Bureau, in DOT specification 34 polyethylene containers. (Modes 1, 2.)
6464-P	Philadelphia Gas Works, Philadelphia, Pa.; Bay State Gas Co., Boston, Mass.; New Jersey Natural Gas Co., Asbury Park, N.J.; Northern Petrochemical, Des Plaines, Ill.	49 CFR 172.101, 173.316(a)	To become a party to E 6464 authorizing shipment of liquefied natural gas or liquefied ethylene in non-DOT specification aluminum cargo tanks. (Mode 1.)
6534-P	Douglas Aircraft Co., Long Beach, Calif.	49 CFR 173.302(a)	To become a party to SP 6534 authorizing shipment of nitrogen or air -60° F. dryness in nonDOT specification cylinders. (Modes 1, 2, 4, 5.)
6536-P	South Jersey Gas Co., Folsom, N.J.; New Bedford Gas and Edison Light Co., New Bedford, Mass.; Northern Petrochemical Co., Des Plaines, Ill.; Bay State Gas Co., Boston, Mass.; New Jersey Natural Gas Co., Asbury Park, N.J.	49 CFR 173.315(a)(1)	To become a party to E 6536 authorizing shipment of liquefied natural gas in nonDOT specification aluminum cargo tanks. (Mode 1.)
6616-P	The Boeing Co., Seattle, Wash.	49 CFR 173.301(a), 175.3	To become a party to SP 6616 authorizing shipment of bromotrifluoromethane pressurized with nitrogen in nonDOT specification spherical, steel pressure vessels. (Modes 1, 4, 5.)
6637-P	Igloo Corp., Houston, Tex.	49 CFR 173.119(a)(b), 173.245, 173.249, 173.250a, 173.257, 173.263, 173.265, 173.266, 173.272, 173.277, 173.287, 173.289, 173.292, 173.346, 173.357, 173.358, 173.359, 178.19	To become a party to SP 6637 authorizing shipment of corrosive liquids for which DOT specification 34 containers are prescribed; class B poisonous liquids, identified to the Bureau, and flammable liquids for which the packaging requirements of 49 CFR 173.119 (a) and (b) are prescribed in nonDOT polyethylene containers. (Modes 1, 2, 3.)
6671-P	Dow Corning Corp., Midland, Mich.	49 CFR 173.1, subpt. C, subpt. E, subpt. G, 177.854	To become a party to SP 6671 authorizing shipment of flammable liquids class B poisonous liquids, and corrosive liquids in DOT specification 17C drums or non-DOT specification open-head drums containing damaged, leaking or defective 17C or 17E drums. (Mode 1.)
6726-P	Igloo Corp., Houston, Tex.	49 CFR pt. 173, subpt. E, 178.19	To become a party to E 6726 authorizing shipment of corrosive liquids for which DOT 34 containers are authorized in non-DOT specification blow-molded polyethylene containers. (Modes 1, 2.)
6793-P	American Hoechst Corp., Somerville, N.J.; Sea Containers, New York, N.Y.	49 CFR 173.119, 173.125, 173.245, 173.247, 173.346	To become a party to E 6793 authorizing shipment of poisonous, flammable corrosive, and combustible liquids, identified to the Bureau, in non-DOT specification portable tanks. (Modes 1, 3.)
6800-P	IMC Chemical Group, Inc., Boston, Mass.; Igloo Corp., Houston, Tex.; FMC Corp., Philadelphia, Pa.	49 CFR 173.119, 173.245, 173.245b, 173.249, 173.250a, 173.257, 173.263, 173.265, 173.266, 173.272, 173.277, 173.287, 173.289, 173.292, 178.19	To become a party to E 6800 authorizing shipment of monochloroacetic acid, solid; corrosive liquids for which the DOT specification 34 polyethylene container is authorized; flammable liquids specifically identified to the Bureau, in non-DOT specification reusable molded polyethylene containers. (Modes 1, 2, 3.)
6858-P	Orval Tank Containers, Paris, France	49 CFR 173.119, 173.125, 173.346	To become a party to SP 6858 authorizing shipment of flammable liquids, identified to the Bureau, in non-DOT specification portable tanks. (Modes 1, 2, 3.)
6923-P	Mobil Chemical Co., Beaumont, Tex.	49 CFR 172.101, 173.315(a)(1)	To become a party to E 6923 authorizing shipment of liquefied ethylene in a non-DOT specification cargo tank. (Mode 1.)
6978-P	Warren Petroleum Co., Tulsa, Okla.	49 CFR 173.315(a)(1), (c)(1)	To become a party to E 6978 authorizing shipment of liquefied ethane-propane mixture in a DOT specification MC-331 tank motor vehicle. (Mode 1.)
6984-P	Energy Sciences and Consultants, Inc., Biwabik, Minn.	49 CFR 173.66(g), 173.103(a), 177.835(g)(2)(i)	To become a party to SP 6984 authorizing shipment of electric blasting caps—1,000 or less in inside pasteboard cartons or tubes as specified in sec. 173.66(g)(1), overpacked in a standard 22 container, without an outside DOT specification container. (Mode 1.)
7007-P	Van Waters & Rogers, San Francisco, Calif.	49 CFR 173.314(c), 179.3	To become a party to E 7007 authorizing shipment of chlorine in a non-DOT specification tank made in accordance to DOT specification H0A300W tank cars with modifications. (Modes 1, 3.)
8852-P	South Jersey Gas Co., Folsom, N.J.	49 CFR 173.315	To become a party to SP 8852 authorizing shipment of liquefied methane in non-DOT specification aluminum cargo tanks. (Mode 1.)
5945-P	Air Products & Chemicals, Allentown, Pa.	49 CFR 173.315, 178.245	To become a party to E 5945 authorizing shipment of liquefied carbon dioxide in a modified DOT specification portable tank. (Mode 1.)
5067-P	The Boeing Co., Seattle, Wash.	49 CFR 173.304(a)(2)	To become a party to SP 5067 authorizing shipment of monochlorodifluoromethane in cool gas generators. (Modes 1, 2, 4, 5.)
6071-P	do	49 CFR 173.304, 173.306	To become a party to SP 6071 authorizing shipment of monobromotrifluoromethane pressurized with nitrogen in a modified DOT specification 4DA cylinder. (Modes 1, 2, 4, 5.)
6112-P	South Jersey Gas Co., Folsom, N.J.; Bay State Gas Co., Boston, Mass.	49 CFR 173.315(a)(1)	To become a party to SP 6112 authorizing shipment of methane, ethylene, ethane or liquefied petroleum gas in non-DOT specification steel cargo tanks. (Mode 1.)
6197-P	South Jersey Gas Co., Folsom, N.J.; New Jersey Natural Gas, Asbury Park, N.J.	do	To become a party to SP 6197 authorizing shipment of liquefied natural gas or liquefied methane in a non-DOT specification cargo tank. (Mode 1.)

Application No.	Applicant	Regulation(s) affected	Nature of application
7026-P	Douglas Aircraft Co., Long Beach, Calif.	49 CFR 173.304(a)(1), 178.47	To become a party to SP 7026 authorizing shipment of bromotrifluoromethane pressurized with nitrogen in non-DOT specification spherical steel pressure vessels. (Modes 1, 4, 5.)
7094-P	Dow Chemical Co., Freeport, Tex.	49 CFR 172.101	To become a party to E 7094 authorizing shipment of corrosive liquids and solids which are only corrosive to skin; caustic soda, dry, flake, bead, and caustic potash dry, solid to be stowed on deck in open or under cover, tween decks, and under deck. (Mode 3.)
7238-P	Alcan Metal Powders, Elizabeth, N.J.	49 CFR 173.232	To become a party to E 7238 authorizing shipment by water of uncoated aluminum powder in steel barrels or drums not exceeding 650 lb gross weight per barrel or drum. (Mode 3.)
7240-P	Thermoset Plastics, Inc., Indianapolis, Ind.; Applied Plastics, Inc., El Segundo, Calif.	49 CFR 173.249	To become a party to E 7240 authorizing shipment of alkaline corrosive liquids in non-DOT specification metal containers overpacked in a DOT specification 12B fiberboard box. (Modes 1, 2, 3.)
7413-P	General Motors Inc., Warren, Mich.	49 CFR 178.42-12(a)	To become a party to E 7413 authorizing the manufacture and use of cylinders for liquefied carbon dioxide, which comply with the 3E cylinder except they are of brazed construction rather than seamless. (Modes 1, 2, 3, 5.)
7428-P	Alreo Industrial Gases Div., Alreo Inc., New Providence, N.J.	49 CFR 173.302(a)(3)	To become a party to E 7428 authorizing shipment of certain compressed gases in non-DOT specification cylinders. (Mode 1.)
7444-P	New Jersey Natural Gas Co., Asbury, N.J.; South Jersey Gas Co., Piquette, N.J.; Philadelphia Gas Works, Philadelphia, Pa.; Bay State Gas Co., Boston, Mass.	49 CFR 172.101, 173.315(a)	To become a party to E 7444 authorizing shipment of liquefied natural gas and liquefied ethylene in non-DOT specification cargo tanks. (Mode 1.)

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on November 5, 1976.

C. H. THOMPSON,
Acting Director Office of
Hazardous Materials Operations.

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DEPARTMENT OF AGRICULTURE

Forest Service

BOULDER-GRAND DIVIDE UNIT OF ARAPAHO AND ROOSEVELT NATIONAL FORESTS

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Boulder-Grand Divide Unit on the Arapaho and Roosevelt National Forests. The Forest Service report number is USDA-FS-R2-DES(Adm) FY-77-01.

The draft environmental statement concerns both an administrative proposal to implement a revised land management plan for the Boulder-Grand Divide Unit and a legislative proposal to establish the St. Vrain Glaciers Wilderness as a National Forest unit within the National Wilderness Preservation System, located on the Boulder and Sulphur Ranger Districts of the Arapaho and Roosevelt National Forests, Boulder and Grand Counties, Colorado.

The draft environmental statement was transmitted to CEQ on November 8, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW, Washington, D.C. 20250.

USDA, Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225.

USDA, Forest Service, Arapaho and Roosevelt National Forests, P.O. Box 1366, Fort Collins, Colorado 80522.

A limited number of single copies are available upon request to L. A. Amicarella, Forest Supervisor, USDA Forest Service, Federal Building, 301 S. Howes,

P.O. Box 1366, Fort Collins, Colorado 80522.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to L. A. Amicarella, Forest Supervisor, USDA Forest Service, Federal Building, 301 S. Howes, P.O. Box 1366, Fort Collins, Colorado 80522. Comments must be received by February 15, 1977, in order to be considered in the preparation of the final environmental statement.

L. A. AMICARELLA,
Forest Supervisor.

NOVEMBER 8, 1976.

[FR Doc.76-33577 Filed 11-12-76; 8:45 am]

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION BICENTENNIAL PROJECTS

Termination of ARBA Non-Appropriated Revenue Funding

At its meeting of November 4, 1976, the American Revolution Bicentennial Board approved a Resolution stating that the Board will not consider any further requests for ARBA non-appropriated revenues for funding Bicentennial projects. The ARB Board was established by Pub. L. 93-179 to provide basic policy and guidelines to the ARBA Administrator and to give final approval to grants au-

thorized by the Act. The Resolution approved by the Board is as follows:

Whereas Pub. L. 93-179 requires that the ARB Board give final approval to ARBA non-appropriated revenue matching grants; and

Whereas the ARBA is now phasing out as required by Pub. L. 93-179 looking toward termination no later than June 30, 1977; and

Whereas the Board has heretofore agreed that any remaining unobligated ARBA non-appropriated revenues not required solely for its projects and administrative costs be utilized for a memorial to the 56 signers of the Declaration of Independence (not to exceed \$250,000) and for a final program of equal grants to State Bicentennial Commissions or their successor agency;

Now Therefore be it resolved that the ARB Board will not consider any further requests for ARBA nonappropriated revenues for funding Bicentennial projects.

The resolution was moved, seconded, and passed at a meeting of the Board on November 4, 1976.

JEAN MCKEE,
Acting Administrator.

NOVEMBER 10, 1976.

[FR Doc.76-33556 Filed 11-12-76; 8:45 am]

CIVIL RIGHTS COMMISSION

CALIFORNIA

Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on December 13, 1976, at the Federal Building, Room 8544, 300 North Los Angeles Street, Los Angeles, California. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning pub-

lie school desegregation and equal educational opportunity; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning public school desegregation and equal educational opportunity; and to disseminate information with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning public school desegregation and equal educational opportunity.

Dated at Washington, D.C., November 9, 1976.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc.76-33631 Filed 11-12-76; 8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business
Administration

EPA—RESEARCH TRIANGLE PARK

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00355. Applicant: Environmental Protection Agency, Environmental Research Center, 54 and Alexander Road, Research Triangle Park, N.C. 27711. Article: Electron Microscope, Model EM 400 HMG with high mag. Goniometer and accessories. Manufacturer: North American Philips, The Netherlands. Intended use of article: The article is intended to be used to identify and determine particle size and distribution of asbestos minerals in samples obtained from ambient air in and around stationary sources and mobile sources, e.g., brake lining debris. The objective of investigations and analysis of these asbestos form minerals is to evaluate the conformity of the asbestos industry or other industries using asbestos minerals to EPA regulations governing hazardous substances.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides an eucentric goniometer stage and a

scanning transmission electron microscope attachment (STEM). The most closely comparable domestic instrument is the Model EMU-4C available from the Adam David Company. We are advised by the National Bureau of Standards (NBS) in its memorandum dated September 23, 1976 that the specifications of the article described above are pertinent to the applicant's intended purposes. NBS further advises that domestic instruments do not provide an equivalent eucentric goniometer or STEM capability. We, therefore, find that the EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc.76-33560 Filed 11-12-76; 8:45 am]

UNIVERSITY OF CHICAGO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00436. Applicant: University of Chicago, Enrico Fermi Institute, 5640 S. Ellis Avenue, Chicago, IL 60637. Article: Backscatter Display System for Hitachi HFS-2 Scanning Electron Microscope and accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is an accessory to be used to increase the resolution of an existing scanning electron microscope which is being used to visualize extremely small surface details, primarily on biological specimens. Applications exist in materials science and geology as well. Materials include samples from a variety of organisms, including human tissue. Of special interest are cells, constituents of cells, and viruses.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated October 19, 1976 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other similar accessories being manufactured in the United States, which are interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc.76-33561 Filed 11-12-76; 8:45 am]

UNIVERSITY OF CHICAGO— ARGONNE LABORATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00477. Applicant: University of Chicago—Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60439. Article: Thermal Analysis System, TG-DTA. Manufacturer: Rigaku Inc., Japan. Intended use of article: The article is intended to be used to develop data of value to the environment of chemistry and fluidized-bed coal combustion program. More specifically, a variety of reactions associated with pollution control during combustion processes will be investigated by measuring weight changes and heat effects of the solid-gas reactions associated with pollution control.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides simultaneous measurements of thermogravimetric and differential thermal analysis on the same sample. The National

Bureau of Standards advises in its memorandum dated October 21, 1976 that (1) the specification described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc. 76-33562 Filed 11-12-76; 8:45 am]

UNIVERSITY OF KANSAS MEDICAL CENTER ET AL

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before December 6, 1976.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00010. Applicant: University of Kansas Medical Center, College of Health Sciences & Hospital, Ralph L. Smith Mental Retardation Research Center, 39th & Rainbow, Kansas City, Kansas 66103. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigations that include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in courses entitled Ultrastructure and Cytochemistry which involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Ap-

plication received by Commissioner of Customs: October 13, 1976.

Docket number: 77-00011. Applicant: The University of Texas Health Science Center at Houston, Medical School; Dept. of Pathology, P.O. Box 20708, Houston, TX 77025. Article: Ultra-microtome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for both thin and thick sectioning of a variety of tissues in the study of human pathology at the ultrastructural level to provide a back-up to the light microscopic findings on the patient and to aid in providing the basis for future diagnostic EM work. In addition, tissue from experimental animals such as dogs and mice will be studied. Application received by Commissioner of Customs: October 14, 1976.

Docket number: 77-00012. Applicant: Smithsonian Institution, Department of Invertebrate Zoology, National Museum of Natural History, 10th & Constitution Ave. NW., Washington, D.C. 20560. Article: Electron Microscope, Model EM 9S-2 and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the examination of the tissues of vertebrate animals, tissues and whole specimens of invertebrate animals, and various plant tissues. The objectives to be attained through use of the article include the following:

- A study of the structure and function of choanocyte chambers and their relation to higher sponge taxa.
- A study of the symbiotic algae in sponge tissue.
- A study to identify and quantify the nanoplankton and particulate organic matter in the water column over the Carrie Bow Cay (Belize) Reef Tract.
- A study of the various sensory receptors of nematodes to determine to what changes in their environment (stimuli) they are sensitive, and what role they place in the animals' biology.
- To study the ultrastructure of nematode muscle to determine if there are certain structural correlations with fast and slow contracting muscle.
- To compare the muscles and cuticle of nematodes to determine if they reveal evolutionary relationships between major taxa.
- To study the glandular cells of certain plants that secrete oils used by bees as larval food.
- To study the peculiarities of the digestive system of the bee larvae that feed upon the secreted oils of plants.
- To determine phylogenetic relationships between plant taxa by examining the ultrastructure of pollen walls, and
- A study of the scales from butterfly wings to determine how their ultrastructure produces certain birefringent patterns of light.

The article will also be used by post-doctoral fellows conducting their research the most of which will involve the serial sectioning of either whole organisms, or their parts to obtain ultrastructural data for the purpose of better understanding evolutionary relationships. Application received by Commissioner of Customs: October 15, 1976.

Docket number: 77-00013. Applicant: Smithsonian Institution, Washington, D.C. 20560. Article: Scanning Electron Microscope, Novascan 30 and accessories. Manufacturer: Carl Zeiss, Canada. Intended use of article: The article is intended to be used for research on life histories of marine organisms which include investigations of gametogenesis, development and larval metamorphosis of representative marine organisms. Experiments will be conducted on the effects of chemical pollutants on the processes of organogenesis and metamorphic changes in the development of marine organisms. Specifically, the effects of toxic heavy metals on embryonic and larval development will be examined. The article will also be used as an educational tool in training post-doctoral fellows in the development of marine organisms. These trainees will be familiarized with principles and operation of the scanning electron microscope and in interpretation of the morphology of gametes, embryos and larvae of marine organisms. Application received by Commissioner of Customs: October 15, 1976.

Docket number: 77-00014. Applicant: National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Houston, TX 77058. Article: Electron Microscope, Model JEM-100C and accessories. Manufacturer: JEOL, Japan. Intended use of article: The article is intended to be used for studies of lunar samples, i.e. meteorites; and volcanic, hypervelocity impact and nuclear-chemical explosion produced glassy droplets. Experiments to be conducted will include scanning electron microscope studies of particles for morphology and surface chemistry, scanning transmission electron microscope studies of surfaces of petrographic thin sections that have been ion etched to determine size, shape and compositions of breccia fragments, and transmission electron microscope studies of the <20 μ m fraction of lunar regolith samples. Application received by Commissioner of Customs: October 15, 1976.

Docket number: 77-00015. Applicant: Duke University, Durham, North Carolina 27706. Article: Electron Microscope, Model JEM 100S and accessories. Manufacturer: JEOL, Japan. Intended use of article: The article is intended to be used for the study of lung tissues taken from appropriate experimental animals exposed to a variety of oxidants, such as oxygen, NO₂, and ozone and human patients with a variety of carcinomas or various interstitial lung diseases. The specimens will be thin, plastic-embedded sections which have been cut on an ultramicrotome and stained and prepared for electron microscopy. The experiments to be conducted will involve sophisticated forms of stereology in which the lung structure is quantified by taking a large number of low magnification and high magnification electron micrographs in random fashion, then subjecting these micrographs to a detailed computer analysis which will yield data about the

various cells that make up the lung, including the number, size, average thickness and average surface area of every major lung cell type. Application received by Commissioner of Customs: October 15, 1976.

Docket number: 77-00016. Applicant: Yale University, Department of Chemistry, 225 Prospect Street, New Haven, Connecticut 06520. Article: Computer Controlled Kappa-Axis 4-circle Single Crystal Diffractometer, Model CAD-4 (less disc). Manufacturer: Enraf-Nonius, The Netherlands. Intended use of article: The article is intended to be used for studies of organic, inorganic, and organometallic chemical compounds. Measurements of positions and intensities of single crystal diffracted x-rays will be conducted to determine crystal morphology, atomic and molecular crystal-line arrangements, and molecular structures. Application received by Commissioner of Customs: October 19, 1976.

Docket number: 77-00017. Applicant: Penrose Hospital, 2215 N. Cascade Avenue, Colorado Springs, Co. 80907. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for ultrastructural studies of tissue from surgical biopsies of patients with various types of cancer, particularly of the hematopoietic and lymphopoietic systems, biopsies of cardiac muscle taken at the time of angiographic studies, needle biopsies of kidney and of bone marrow. Tissues from the same patients who later succumb and are studied at postmortem examination will be fixed and prepared for ultrastructural studies. The article will provide means for the study of the cytologic phenomenon at an ultrastructural level that may help to understand both the chemotherapeutic effects of these agents upon the above mentioned neoplastic diseases but also the non inconsiderable cytotoxic effects of the same agents which impede further use of the therapy. In addition, the article will be used in the following educational applications:

(a) A course in "Basic Techniques in the Preparation of Surgical and Autopsy Tissue for Electron Microscopic Study" in which the various procedures of fixation dehydration, embedding, thick and thin sectioning on the ultramicrotome as well as preparation of specimen grids and the staining of such sections will be taught.

(b) A course in "Use of Electron Microscope in the Study of the Ultrastructure of Tissue from Surgical and Autopsy Material" in which students will take the materials which they themselves have prepared and study those materials under the electron microscope preparing photographs of their observations.

(c) A course on the "Interpretation and Application Thereof of Ultrastructure in the Routine Diagnosis of Pathologic Conditions" in which students will be expected to utilize the electron photomicrographs which they have prepared under (b) from the very tissues which they have prepared under (a) to make correlations between the light microscopic material available on the same cases with ultrastructural changes.

(d) A course on "Application of Ultrastructural Studies of Cells in Diagnostic

Cytology" in which cytotechnologists are expected to prepare the grids using cytologic material rather than tissues and will be instructed in the use of the electron microscope in the study of the ultrastructural changes found in cytologic material from patients with disease.

(e) A course for medical students in "Correlations of Ultrastructural Changes with light microscopic abnormalities in disease.

(f) An intensive post-graduate education program for practicing physicians of the medical staff of the Hospital. Application received by commissioner of customs: October 19, 1976.

Docket number: 77-00018. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: Gas Chromatograph-Mass Spectrometer, Model MAT 111 and accessories. Manufacturer: Varian MAT, West Germany. Intended use of article: The article is intended to be used for the study of metabolites in the blood and urine from patients with metabolic disease and from control subjects. The materials analyzed will be complex mixtures of compounds extracted from blood or urine. The objectives of the investigations that will require use of the article are threefold: (1) to detect and characterize metabolic disorders which have not yet been described; (2) to establish the diagnosis of known diseases in new patients; (3) to study such disorders, both known and newly discovered, in greater detail in order to gain insight into their biochemical origins and implications. Application received by commissioner of customs: October 19, 1976.

Docket number: 77-00019. Applicant: The Milton S. Hershey Medical Center of the Pennsylvania State University, Department of Anatomy, 500 University Drive, Hershey, Pennsylvania 17033. Article: Electron Microscope, Model EM 400 HM, and High Magnification Goniometer Stage. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in all of the current on-going research activities of the entire faculty and staff with the Department of Anatomy, as well as on-going programs within the Divisions of Ophthalmology, Neurology, Neurosurgery and Plastic Surgery. These research programs will include the following:

Histophysiology and Pathogenesis of Diabetes Mellitus Fetal and Infantile Development of Oral Sensory Receptors in Primates: Microscopic and Ultramicroscopic Histology

The Developmental Histology and Cytology of Mucosal Sensory Receptors of the Larynx, Pharynx and Nose

Studies on the Etiology and Diabetes Mellitus

Anatomical Studies of the Internal Ear Retinal Zinc: Cellular Location and Visual Function

The Vertebrate Eye: Studies of Aqueous Outflow

Ultrastructural Correlates of Myocardial Ischemia

The Effects of Ethylnitrosourea on Developing Brain

The article will also be used in the research training programs within the

Department of Anatomy in terms of its graduate educational program as well as training of postdoctoral fellows.

Application received by Commissioner of Customs, October 9, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc.76-33567 Filed 11-12-76; 8:45 am]

UNIVERSITY OF ROCHESTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00462. Applicant: University of Rochester, Hopeman 110, Rochester, N.Y. 14627. Article: Orthoplan Research Microscope. Manufacturer: Ernest Leitz, GmbH, Germany. Intended use of article: The article is intended to be used to scan relatively large areas in laser fusion experiments. Once located, areas containing defects or damage areas will be examined with greater resolution. This microscopic examination is an important technique in evaluation of new target and film preparation techniques.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a field of view of 28 millimeters (mm). The most closely comparable domestic instrument is the Balplan model manufactured by Bausch and Lomb (B & L). The Balplan model provides a field of view of 20 mm. The National Bureau of Standards advises in its memorandum dated October 18, 1976 that the difference in size of the fields of view is pertinent to the applicant's intended purposes. We, therefore, find that the B & L Balplan model is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc.76-33563 Filed 11-12-76;8:45 am]

WASHINGTON STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00509. Applicant: Washington State University, Division of Purchasing, Pullman, Washington 99162. Article: Combination PZ 8 Flaker and a PSKM 8 Double Stream Mill (Ring Refiner). Manufacturer: L. Pallman KG, West Germany. Intended use of article: The article is intended to be used in composition board research to prepare particles from various species of wood, types of raw material (chips, shavings, hog trim, sawdust, plywood trim). The objective of this research is to produce 4 times as much product from the same forest base now available. The article will also be used in MSE 550, Parameters for Synthesis of Wood Composition Materials, a course for graduate students covering the theory and practice of wood composite materials and development.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability to accept waste wood pieces from various species and produce a variable geometry particle. The National Bureau of Standards (NBS) advises in its memorandum dated October 21, 1976 that (1) the capability described above is pertinent to the applicant's intended research and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-33564 Filed 11-12-76;8:45 am]

WASHINGTON UNIV. SCH. OF MED.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00442. Applicant: Washington University School of Medicine, Dept. of Physiology and Biophysics, 4566 Scott Avenue, St. Louis, Missouri 63110. Article: Rotating Anode X-ray Diffraction Generator, Model GX 20 and complete set of spares and accessories. Manufacturer: Marconi-Elliott Avionics Ltd., United Kingdom. Intended use of article: The article is intended to be used in studies of single crystals of large protein molecules by x-ray diffraction methods in order to learn their molecular structures and how they function in the body.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a focused spot of minimal size (1x1 millimeters) and a rotating target for maximum x-ray beam intensity. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated October 19, 1976 that the capabilities described above are pertinent to the purposes for which the article is intended to be used. HEW also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-33565 Filed 11-12-76;8:45 am]

SCRIPPS CLINIC AND RESEARCH FOUNDATION ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry

of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00450. Applicant: Scripps Clinic and Research Foundation, 10666 N. Torrey Pines Road, La Jolla, California 92037. Article: Electron Microscope, Model HU-12A. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used for biomedical research that includes cancer research, immunopathological diseases, and cytological and molecular abnormalities. Specific research projects will include the following:

(i) Renal diseases: ultrastructural localization and distribution of antigens, antibodies, antigen-antibody complexes and components of complement in human and experimental immunologic renal disease.

(ii) Pulmonary renal and vascular diseases: site of action of mediators that induce inflammation; molecular rearrangements of basement membranes, of fibrinogen and fibrin, platelets.

(iii) Membrane structure, organization and chemical composition, as determined by immunochemical ultrastructural methods, i.e., ferritin-labeled and peroxidase labeled antibodies specific for membrane components.

(iv) Viral organization, structure and relationship to membrane structure.

(v) Cancer research: an ultrastructural study of tumor cells, transformed cells and their interaction with host effector elements and antibodies.

(vi) Complement: a morphologic examination of the components of complement, singly and assembled, in fluid phase and at attach points of membranes. Application received by Commissioner of Customs: June 21, 1976. Advice submitted by the Department of Health, Education, and Welfare on: October 20, 1976. Article ordered: January 20, 1976.

Docket Number: 76-00452. Applicant: Case Western Reserve University, 2040 Adelbert Road, Cleveland, Ohio 44106. Article: Electron Microscope, Model JEM-100C, Haskris Water recirculator and universal Goniometer. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is intended to be used for studies of biological materials including a variety of macromolecules such as enzymes and nucleic acids as well as more complex biological structures including viruses, membranes, intracellular organelles and cellular sections. Experiments with enzymes will include the examination of a number of multi-subunit enzymes in their native condition and after cross-linking with chemical agents

in the dimethyl suberimidate type, or when possible with ultravalent natural agents such as the reaction of avidin with biotin enzymes. Other experiments will involve the interaction of enzymes with specific antibodies prepared against the entire enzyme or specific parts of the enzyme. Application received by Commissioner of Customs: June 25, 1976. Advice submitted by the Department of Health, Education, and Welfare on: October 20, 1976. Article ordered: March 31, 1976.

Docket Number: 76-00454. Applicant: Texas A & M University, Tx. Veterinary Medical Diagnostic Lab., P.O. Drawer 3040, College Station, Texas 77840. Article: Electron Microscope, Model EM 301 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the study of viruses in tissue culture systems and clinical material, determination of surface structures of certain bacterial and determination of diagnostic criteria for a variety of pathological conditions. Application received by Commissioner of Customs: June 25, 1976. Advice submitted by the Department of Health, Education, and Welfare on: October 20, 1976. Article ordered: July 29, 1976.

Docket Number: 76-00458. Applicant: University of Wisconsin, Food Research Institute, 1925 Willow Drive, Madison, Wisconsin 53706. Article: Electron Microscope, Model HU-12A with water recirculator. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for microbiological and biochemical research activities which cover all the major food-poisoning hazards, including botulism, salmonella, staphylococcus, *Clostridium perfringens*, *Bacillus cereus*, enteropathogenic *Escherichia coli*, viruses and mycotoxins. This will also include research on the metabolism and potential pathobiology of several important food additives—sulfites, nitrites, phosphates and phenolic-based antioxidants—as well as the heavy metal contaminants, mercury and lead. In addition, the article will be used in the training of graduate students for advanced degrees in Bacteriology and Food Science and post-doctorate individuals. Application received by Commissioner of Customs: June 30, 1976. Advice submitted by the Department of Health, Education, and Welfare on: October 20, 1976. Article ordered: May 4, 1976.

Docket Number: 76-00469. Applicant: Colorado State University, Ft. Collins, Colorado 80523. Article: Electron Microscope, Model HU-12A. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for research and diagnostic pathology in the following projects:

(1) Study of virus particles in partially purified preparations of diagnostic samples and tissue extracts.

(2) The morphology (high resolution) of MCF, picornavirus and other small viruses in cell cultures and tissues.

(3) The study of actin and myosin in situ and in isolated preparations following treatment of exposure to anthracycline antibiotics.

(4) The study of nuclear and mitochondrial DNA following treatment of rabbits and myocardial cell cultures with adriamycin. Application received by Commissioner of Customs: July 7, 1976. Advice submitted by the Department of Health, Education, and Welfare on: October 20, 1976. Article ordered: October 7, 1974.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article has a specified resolving capability of 3.0 Angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is manufactured by Adam David Company. At the time the articles were ordered the Model EMU-4C had a specified resolving capability of five Angstroms. (Resolving capability bears an inverse relationship to its numerical rating in Angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Model EMU-4C was not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director Special Import
Programs Division.

[FR Doc.76-33566 Filed 11-12-76;8:45 am]

National Oceanic and Atmospheric Administration

PRE-ACT ENDANGERED SPECIES PRODUCTS

Issuance of Certificate of Exemption

On September 29, 1976, notice was published in the FEDERAL REGISTER (41 FR

42968) that an application had been filed with the National Marine Fisheries Service by Archer-Daniels-Midland Company, Decatur, Illinois, for a Certificate of Exemption to engage in certain commercial activities with respect to approximately 7,588,825 pounds of sperm whale oil, said oil being a pre-Act endangered species product.

Notice is hereby given that on November 5, 1976, as authorized by the provisions of the Endangered Species Act of 1973, as amended, (Pub. L. 94-359), and the regulations issued thereunder (50 CFR Part 22, Subpart B), the National Marine Fisheries Service issued a Certificate of Exemption to Archer-Daniels-Midland Company, 4666 Faries Parkway, Decatur, Illinois, 62526.

The Certificate of Exemption is available for review during normal business hours in the Office of the Enforcement Division, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20007.

Dated: November 11, 1976.

ROBERT J. AYERS,
Acting Assistant Director.

[FR Doc.76-33681 Filed 11-12-76;8:45 am]

Office of the Secretary

[Department Organization Order 21-4
Transmittal 322]

BUREAU OF INTERNATIONAL ECONOMIC POLICY AND RESEARCH

Organization and Functions

OCTOBER 13, 1976.

This order is effective October 13, 1976.

Section 1. Purpose.

This order establishes and prescribes the functions of the Bureau of International Economic Policy and Research. Section 2. Establishment and Transfers.

Pursuant to the authority vested in the Assistant Secretary for Policy by Department Organization Order 10-2 of May 19, 1976, the Bureau of International Economic Policy and Research was established as a Departmental office. The functions, personnel, funds, property and records of the Domestic and International Business Administration's Bureau of International Economic Policy and Research had been transferred to the Assistant Secretary for Policy by Department Organization Order 10-3 of May 19, 1976.

Section 3. Status and Line of Authority.

The Bureau of International Economic Policy and Research shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Policy. The Director shall be designated as the Deputy Assistant Secretary for International Economic Policy and Research.

Section 4. Office of the Deputy Assistant Secretary for International Economic Policy and Research.

.01 The Deputy Assistant Secretary for International Economic Policy and Research shall determine the objectives and direct the activities of the Bureau;

shall assist and advise the Assistant Secretary for Policy in the research, analysis and formulation of international economic and commercial programs and policies relating to trade, finance and investment; shall initiate and review research studies on developments affecting U.S. trade and commercial interests abroad and provide statistical information and analysis on the foreign trade of the U.S. and foreign countries; shall be responsible for development and coordination of the Department's international economic policy; represent the Department in international trade and other negotiations; and carry out the Department's interagency policy role in such organizations as the National Security Council, the Council on International Economic Policy, the Office of the Special Trade Representative, and the National Advisory Council on International Monetary and Financial Policies.

.02 The Deputy Director shall assist in the direction of the Bureau and shall perform the functions of the Deputy Assistant Secretary in the latter's absence.

Section 5. Office of International Trade Analysis.

The Office of International Trade Analysis shall provide statistical information and analysis on the foreign trade of the United States and of foreign countries. This includes analysis of past and projected trends in U.S. and world trade based on econometric, questionnaire, and other techniques; preparation of special analyses on subjects related to foreign trade flows for the use of policy officials; evaluation of shifts in U.S. shares of foreign markets, principally for manufactured goods; analysis of developments in world trade; compilation and publication of data on trade between the free world and socialist nations for government-wide use, and preparation of reports on trends in this trade; provision of service to businessmen and government officials for foreign trade data of the United States and of other countries; and collection and publication of information on factors influencing U.S. and world trade.

Section 6. Office of International Trade Policy.

The Office of International Trade Policy shall be responsible for the development and implementation of the Department's position on all aspects of U.S. international trade policy, including trade legislation and International Trade Commission findings, trade negotiations, consultations with industry, and trade and commercial policy relations with individual countries, regional economic groupings, and international organizations. For all such trade policy matters, the Office shall represent the Department on interagency committees, and in international meetings on trade policy matters; analyze and comment on relevant legislative proposals; prepare the Department's positions on International Trade Commission findings, bilateral trade policy issues and bilateral trade negotiations; manage the consultations with U.S. industry in support of multilateral trade negotiations; maintain rela-

tionships and representation with business and trade groups; and, through appropriate channels, make representations to foreign governments on behalf of U.S. business on the maintenance of their full rights under the terms of treaties and international agreements of the United States.

Section 7. Office of International Finance and Investment.

The Office of International Finance and Investment shall be responsible for the development and implementation of the Department's policies relating to international investment, finance and monetary affairs, U.S. and foreign taxation of international business operations, economic impact of international technology transfer, international business practices, international trade aspects of antitrust, standardization, patent and copyright protection, and related matters arising from the international commercial and investment operations of U.S. firms; and shall analyze and act on international transportation and insurance problems affecting U.S. business. The Office shall provide staff support for the Department's representative on the National Advisory Council on International Monetary and Financial Policies, and represent the Department on interagency work groups and at international meetings concerning multinational corporations, investment disputes and other related matters.

Section 8. Office of Economic Research.

The Office of Economic Research shall conduct research studies on developments affecting U.S. trade and commercial interests abroad; shall be responsible for the development and coordination of econometric models concerned with longer-term U.S. trade and investment projections; shall evaluate the effect that domestic and international economic developments have on the competitive position of individual industries and on U.S. industry in general; and shall serve as liaison with U.S. Government research and intelligence agencies as well as with private research groups.

Section 9. Office of foreign investment in the United States.

The Office of Foreign Investment in the United States shall develop, obtain, consolidate and analyze information on foreign investment in the United States; improve procedures for the collection and dissemination of information on such foreign investment; based on close observation of foreign investment in the U.S., prepare reports and analyses of trends and significant developments in appropriate categories of such investment; compile data and prepare evaluations of significant inward investment transactions and assess the impact of such investment on U.S. economic security; submit to the interagency Committee on Foreign Investment in the United States, the Congress and the public, appropriate reports, analyses, data and recommendations on foreign investment in the U.S.; and obtain information and assistance from other Federal departments and agencies in order to carry

out the Secretary's functions and activities under Executive Order 11858.

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc. 76-33638 Filed 11-12-76; 8:45 am]

[Department Organization Order 40-1;
Transmittal 323]

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION Organization and Functions

OCTOBER 13, 1976.

This order effective October 13, 1976 supersedes the materials appearing at 40 FR 58879 of December 19, 1975, 41 FR 5857 of February 10, 1976, and 41 FR 8404 of February 26, 1976.

Section 1. Purpose.

.01 This order prescribes the organization and assignment of functions within the Domestic and International Business Administration (DIBA). Department Organization Order 10-3 prescribes the functions of DIBA and the scope of authority of the Assistant Secretary for Domestic and International Business.

.02 This revision incorporates the provisions of a prior amendment (paragraph 7.04), reflects the transfer of certain functions of the Office of Energy Policy and Programs from the Assistant Secretary for Policy to DIBA (paragraph 3.03), the transfer of the Bureau of International Economic Policy and Research and certain international commodities functions of the Office of Import Programs, Bureau of Resources and Trade Assistance from DIBA to the Assistant Secretary for Policy.

Section 2. Organization and structure.

The principal organization structure and line of authority of DIBA shall be as depicted in the attached organization chart (Exhibit 1). A copy of the chart is on file with the original of this document with the Office of the Federal Register.

Section 3. Office of the Assistant Secretary for Domestic and International Business.

.01 The Assistant Secretary for Domestic and International Business determines policy, directs the programs and is responsible for all activities of DIBA.

.02 The Deputy Assistant Secretary for Domestic and International Business shall perform such duties as the Assistant Secretary shall assign; shall carry out the Assistant Secretary's responsibilities in connection with the Defense Production Act of 1950 as amended and extended; shall be the principal assistant and advisor to the Assistant Secretary on public affairs, and administrative matters; shall direct the activities of the Office of Public Affairs and the Directorate of Administrative Management; and shall assume the duties of the Assistant Secretary during the latter's absence.

.03 The Office of Energy Programs shall be headed by a Director, who shall be responsible for the Department's industrial energy programs, including

conservation and energy utilization; provide data, technical and policy analysis support to the Office of Energy and Strategic Resource Policy under the Assistant Secretary for Policy; be the principal DIBA point of contact for the development of energy policy and program options and provide, within DIBA, policy and program guidance for energy and energy-related commodities found to be in short supply; serve as a point of contact for and monitor the oil, gas, coal, electric power and other energy industries, including maintaining and analyzing current and projected import/export and supply/demand balances; provide appropriate staff support and/or departmental representation, within guidance provided by the Office of Energy and Strategic Resource Policy, on energy-related task forces and committees established to examine specific energy policy issues and problems pertinent to the U.S. business community; provide the Executive Director and staff support for the National Industrial Energy Council (NIEC); establish and maintain liaison with key energy intensive industries and trade associations to implement programs for optimum use of energy resources; and serve as a point of contact on technological transfer connected with effective energy management programs.

Section 4. Staff Offices.

.01 The *Office of Public Affairs* shall advise DIBA officials and organizational elements on all public affairs and information service matters; provide centralized information services for DIBA; conduct and be responsible for all DIBA publications programs, consonant with the provisions of Department Organization Order 20-9, "Office of Publications"; provide speech writing and scheduling services for DIBA; and maintain liaison for DIBA with the Departmental Office of Publications, the Departmental Office of Communications, and the news and trade media consonant with the provisions of Department Organization Order 15-3, "Office of Communications."

.02 The *Directorate of Administrative Management* shall provide administrative management services for all DIBA organizational components. The functions of the Directorate shall be carried out through the principal organizational elements as prescribed below:

a. The *Office of Personnel* shall develop and administer personnel management programs including recruitment, placement, employee development, classification, labor-management relations, equal employment opportunity, and employee relations and provide liaison with the Departmental Office of Personnel.

b. The *Office of Management and Systems* shall provide management, organization and systems analysis, including management studies and surveys and organizational planning studies; conduct a position management program; coordinate ADP systems development and the DIBA program management information system; perform the committee management, directives management, records disposition management, forms manage-

ment, files management, and reports management functions for DIBA; coordinate GAO and Departmental audits within DIBA; coordinate DIBA activity under the Freedom of Information Act and the Privacy Act of 1974; and provide liaison with the Departmental Office of Organization and Management Systems.

c. The *Office of Administrative Support* shall provide administrative and support services including personnel, physical and document security, safety, correspondence control, and space management; shall provide procurement liaison; and shall coordinate and process communications between the Department of Commerce and posts abroad, consistent with any administrative agreements between the Assistant Secretary for Domestic and International Business and the Assistant Secretary for Administration.

d. The *Office of Budget* shall develop the DIBA program structure and program memorandum; assess program effectiveness; formulate, present, and execute the budget for DIBA; effect financial and budgetary controls; prepare budget reports; and provide liaison with the Departmental Office of Budget and Program Analysis.

Section 5. Bureau of International Commerce (BIC).

The *Deputy Assistant Secretary for International Commerce* shall assist and advise the Assistant Secretary on export expansion, and shall serve as National Export Expansion Coordinator. Within the framework of overall DIBA goals, the Deputy Assistant Secretary shall determine the objectives of the Bureau—a mainline component of DIBA—formulate policies and programs for achieving those objectives, and direct the execution of Bureau programs. The Deputy Assistant Secretary shall provide a coordinated DIBA response to the economic situation and business opportunities in Near East countries including Saudi Arabia, Iran, Egypt, Israel, Lebanon, Syria, Iraq, Jordan, Kuwait, the United Arab Emirates, Libya, Morocco, Tunisia, and Algeria. The Deputy Assistant Secretary shall be assisted by a *Deputy Director* who shall perform the functions of the Deputy Assistant Secretary in the latter's absence. The functions of the Bureau shall be carried out through its principal organizational elements as prescribed below:

.01 The *Office of Market Planning* shall provide principal planning and strategy development for the Bureau; shall develop and review the Bureau's role, objectives, and operating plans on a worldwide basis; shall identify those sectors of U.S. industry with the greatest export growth potential and examine foreign markets offering the greatest export opportunities to U.S. industry; shall develop guidelines for allocation of resources for DIBA-sponsored export programs; shall establish "intensive promotion cycles" for BIC export expansion activities; shall measure and evaluate Bureau programs; shall be responsible for programs to represent the interests of the Department to other agencies with regard to the official representation of U.S. commercial in-

terests abroad; and shall coordinate country commercial programs and the Office of Field Operations/BIC agreement.

.02 The *Office of Export Development* shall conduct activities in the United States designed to stimulate export marketing in all segments of the domestic economy which have the capability to export; shall develop promotional activities for increasing national awareness of export potentials and benefits, and for improving Government/business cooperation in export development; shall be the focal point for the export expansion activities involving DIBA district offices; shall provide information on commercial participants in world trade and furnish specific trade investment opportunities to U.S. businessmen; shall assist qualified U.S. firms in achieving maximum participation in major systems and development projects abroad; shall provide coordination for DIBA participation in domestic trade fairs; shall encourage foreign direct capital investments and licensing by foreign firms in the United States; and shall provide information and other services consistent with U.S. balance of payments policies and objectives, to U.S. firms undertaking investments overseas.

.03 The *Office of International Marketing* shall provide overseas marketing assistance to U.S. companies through a variety of informational and promotional techniques; shall plan and implement individual country programs to support the marketing needs of U.S. business on a targeted industry, product, and market basis; and shall maintain appropriate information services for all such activities; shall direct the exhibitions program at commercial trade fairs and U.S. trade centers.

Section 6. Bureau of Resources and Trade Assistance.

The *Deputy Assistant Secretary for Resources and Trade Assistance* shall determine the objectives of the Bureau—a mainline component of DIBA—formulate the policies and programs for achieving those objectives, and direct execution of the programs. The Deputy Assistant Secretary shall be assisted by a *Deputy Director* who shall perform the functions of the Deputy Assistant Secretary in the latter's absence. The functions of the Bureau shall be carried out through its principal organizational elements as prescribed below:

.01 The *Office of Import Programs* shall deal with import problems involving industries experiencing difficulties from import competition and with problems in the field of international trade in industrial products. In support of import policy formulation and implementation, shall monitor trade developments which impact on domestic production and employment, including the extent to which trade effects are concentrated in particular geographic areas. For such import-impacted industries or regions, and as otherwise required, it shall maintain interagency relationships, and coordinate legislative comment, international negotiations, and representation

with business and trade groups, and publish periodic reports; analyze information pertaining to international trade in selected industrial products; and represent the Department in U.S. Government participation in international agreements and arrangements on selected industrial products. It shall also process applications for duty free importation of educational, scientific and cultural materials (under UNESCO's Florence Agreement) and represent the Department at international meetings on the UNESCO agreement, process applications to import foreign excess property into the United States; perform staff work pertaining to the allocation of watches and watch movements among producers in the Virgin Islands, Guam, and American Samoa; and provide executive secretarial services and administrative support to the Foreign-Trade Zones Board.

.02 The *Office of Textiles* shall conduct studies and analyses of the fiber, textile and apparel sector of the industrial economy; provide interpretive data on trends affecting the sector's economic stability, and recommend appropriate Government action to prove the economic position of the sector; participate in administration and negotiation of international and bilateral textile agreements; and coordinate interagency relations, legislative comment, and liaison with relevant industry and trade groups.

Section 7. The Bureau of Domestic Commerce.

The *Deputy Assistant Secretary for Domestic Commerce* shall determine the objectives of the Bureau—a mainline component of DIBA—formulate policies and programs for achieving those objectives, and direct execution of the Bureau's programs. The *Deputy Assistant Secretary* shall be assisted by a *Deputy Director* who shall perform the functions of the *Deputy Assistant Secretary* in the latter's absence. The functions of the Bureau shall be carried out through its principal organizational elements as prescribed below:

.01 The *Office of Industrial Mobilization* shall perform national defense and industrial mobilization functions, as follows: assist in achieving, through administration of priorities and allocations and other means, an adequate supply of strategic, critical, and other products and materials for defense and defense-supporting activities and essential civilian needs, including the timely completion of current military, atomic energy, and space programs for production, construction, and research and development; and participate in the development of national plans to assure maximum readiness of the industrial resources of the United States, including the means for administering them, to meet any future demands of any national emergency.

.02 The *Office of Business and Legislative Issues* shall provide analyses and quantitative assessments of domestic business and legislative issues that support, supplement or complement activities of other elements of the Domestic

and International Business Administration, the Department, or other agencies of the Government engaged in developing and evaluating domestic business policy options.

.03 The *Office of Business Research and Analysis* shall collect, maintain, and analyze domestic and international data on individual commodities and industries, such as production, pricing, inventories, marketing, labor, financing, taxation, and location and size of companies, exclusive of data related to the fiber, textile, and apparel sector of the industrial economy, which shall be the responsibility of the Bureau of Domestic Commerce insofar as required for the administration of the Defense Production Act of 1950, as amended.) This information will be used in support of policy decisions and program actions by the Bureau of Domestic Commerce, the Department of Commerce, and other areas of the Government. The Office shall monitor problem commodities for short supply export controls. The Office shall also certify U.S. firms as "bona fide motor-vehicle manufacturers" qualified to trade under the provisions of the U.S.-Canadian Automotive Agreement, and prepare the President's Annual Report to Congress concerning implementation of the Automotive Products Trade Act of 1965.

.04 The *Office of Ombudsman* shall serve as a focal point for business assistance, consultation, and advice; receive and respond to inquiries from business and industry, the Congress, other agencies of the Government, and the public; identify and take action to clarify business concerns involving Government policies and programs; serve as the Department's contact in consumer affairs matters with other Government agencies; serve as the focal point for the consumer inquiries, complaints, and requests for assistance; obtain consumer views and identify and analyze consumer input on current issues for consideration in the Department's policy formulation and decisionmaking; conduct periodic business-consumer relations seminars in conjunction with the District offices of DIBA's Office of Field Operations, and report on DIBA's consumer representation activities to the Department of Commerce Consumer Affairs Council. In carrying out its functions, the Office shall not represent, intervene on behalf of, or otherwise seek to assist business and individuals on specific matters, cases, or issues before Federal regulatory agencies or before Federal departments exercising a regulatory function with respect thereto; nor shall it participate in, intervene in regard to, or in any way seek to influence the negotiation or renegotiation of the terms of contracts between business and the Government.

Section 8. The Bureau of East-West Trade.

The *Deputy Assistant Secretary for East-West Trade*, shall determine the ob-

jectives of the Bureau—a mainline component of DIBA—formulate policies and programs for achieving those objectives and direct execution of the programs. The *Deputy Assistant Secretary (DAS)* shall be assisted by a *Deputy Director* who shall perform the functions of the DAS in the latter's absence. (The Office of the DAS shall include a *Hearing Commissioner* who shall conduct hearings and perform other duties with respect to administrative compliance proceedings involving Export Administration violations cases, in accordance with the rules set forth in the Export Administration Regulations.) The objectives, policies and programs of the Bureau of East-West Trade shall relate to the U.S.S.R., People's Republic of China, Poland, Romania, Czechoslovakia, Hungary, Bulgaria, Albania, East Germany, the Soviet zone of Berlin, Cuba, Mongolia and certain other areas of the world with similar economic/political structures, and, where necessary for export administration purposes, shall relate to other countries. The Office shall provide necessary secretariat and support services to the Export Administration Review Board and to the Advisory Committee on Export Policy. The functions of the Bureau shall be carried out through its principal organizational elements as prescribed below:

.01 The *Office of East-West Trade Development* shall, with regard to the countries and areas specified, be responsible for developing and implementing program recommendations with regard to trade and other commercial relations; preparing market assessments on Centrally Planned Economy (CPE) countries; gathering information bearing on commercial relations and providing advisory services and information for U.S. firms or industrial groups; developing and disseminating studies of market potential for U.S. trade with these countries and areas; developing and executing programs for U.S. trade promotional events and trade missions to the specified countries and areas; and coordinating activities relating to foreign commercial services and commercial representation in these countries.

.02 The *Office of East-West Country Affairs* shall maintain familiarity with, and develop and disseminate information and advice on, the economic and political conditions and policies and the U.S. trade and commercial relations with the countries and areas listed in Section 8; maintain contacts on East-West trade matters with foreign government officials in the U.S.; develop and provide country information and advice to other elements of the Bureau, the Department, the U.S. chairmen of joint trade commissions and members of interagency committee; and provide executive secretariat services to U.S. joint commercial commissions.

.03 The *Office of East-West Policy and Planning* shall formulate, analyze and make recommendations about legislative and policy issues arising in East-West trade activities; coordinate East-West trade policy review with international trade, finance and other organizations;

monitor and maintain liaison with East-West trade-related national and international organizations; propose and monitor contracts for analyses of East-West trade matters and develop and provide statistical data services for the Bureau.

04 The Office of Export Administration shall administer and, in conjunction with the Department's Office of the General Counsel, enforce the regulations and programs required to carry out Departmental responsibilities under the Export Administration Act of 1969, as amended; develop policies and measures for the administration of U.S. exports of commodities and technical data; seek, in collaboration with other Federal agencies, the adoption by foreign countries of such controls over their exports as will assist the policies of the United States with respect to trade between the free world and the specified countries and areas; and with such other areas as national security, foreign policy and short supply may require; shall have coordinating responsibilities for all short supply activities within DIBA and provide secretariat and support services to the Operating Committee of the Advisory Committee on Export Policy, and Technical Advisory Committees established under the Export Administration Act of 1969, as amended.

Section 9. Office of Field Operations. The Deputy Assistant Secretary for Field Operations shall head the Office which shall serve as the Department's principal medium of contact with the business community at local levels for the functions listed below, most of which will be performed through District Offices and subordinate Satellite offices located throughout the country (Exhibit 2). A copy of this Exhibit is on file with the original of this document with the Office of the Federal Register.

01 Ascertain the needs and desires for information and assistance relevant to the private economy that fall within the scope of Commerce's responsibilities, arranging or participating in the effective delivery of Commerce's business-related information products, and assisting in the planning and design of additional business information;

02 Providing local assistance and service to business communities in utilizing information and related business aids of Commerce and of other agencies, and performing the field work and services involved in the programs of DIBA, and for other organizations of Commerce as may be arranged from time to time;

03 Promoting participation of the general business community in the resolution of economic and business problems of the Nation;

04 Publishing the "Commerce Business Daily"; and

05 Through the District or Satellite Offices located in the ten Uniform Federal Regional Council Cities, serving as the Department's principal coordinator at the regional level for Federal Preparedness Planning, Crisis Management and Emergency Operations. Accordingly, the Office Directors in the ten cities (i.e.,

Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco and Seattle), having been designated Regional Emergency Coordinators, acting in accordance with instructions and guidance issued by the Director, Departmental Office of Emergency Readiness, through the Office of Field Operations, shall represent the Secretary and shall be the principal advisory and contact point for the Department for emergency readiness matters in their respective areas.

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc. 33642 Filed 11-12-76; 8:45 am]

[Department Organization Order 25-5A;
Amdt. 4; Transmittal 317]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization and Functions

SEPTEMBER 30, 1976.

This order effective September 30, 1976 further amends the material appearing at 39 FR 27486 of July 29, 1974, 40 FR 37708 of August 21, 1975, 40 FR 42764 of September 16, 1975 and 40 FR 58882 of December 19, 1975.

Department Organization Order 25-5A, dated July 9, 1974, is hereby further amended as shown below. The purpose of this amendment is to delegate, with certain limitations, to the Administrator of NOAA the functions vested in the Secretary by the Fishery Conservation and Management Act of 1976.

Section 3. Delegation of Authority. A new subparagraph .01dd. is added to read as follows:

"dd. The functions prescribed in the Fishery Conservation and Management Act of 1976 (Public Law 94-265, 16 U.S.C. 1801 et seq. and other miscellaneous provisions), subject to the following exceptions and limitations:

"1. The Secretary reserves the authority:

"(a) to provide general policy guidance to the Administrator and from time to time in his discretion, on his own initiative or at the request of the Administrator, to consult with the Administrator to the extent permitted by law concerning the functions delegated by this subparagraph 3.01dd.;

"(b) to submit the annual reports to the Congress and the President under subsection 305(f) of the Act;

"(c) to make final findings and notifications under subsection 306(b) of the Act;

"(d) in particular instances to issue preliminary fishery management plans and implementing regulations under subsection 201(g) of the Act in each instance where the Secretary specifically determines such action by him is appropriate; and

"(e) in particular instances to approve, disapprove, partially disapprove, or issue a fishery management plan or amendment and implementing regula-

tions under sections 304 and 305 of the Act in each instance where the Secretary specifically determines that such action by him is appropriate.

"2. To assure a full opportunity to the Secretary to exercise his authority reserved in subparagraph 3.01dd.1(a) of this order, the Administrator shall advise the Secretary before any final action is taken with respect to the following functions:

cils under subparagraph 302(b) (1) (C) of the Regional Fishery Management Councils under subparagraph 302(b) (1) (C) of the Act;

"(b) The establishment of guidelines to assist in the development of fishery management plans under subsection 301(b) of the Act;

"(c) The prescribing of uniform standards for each Regional Fishery Management Council under paragraph 302(f) (6) of the Act;

"(d) The establishment of schedules of fees under paragraph 204(b) (10) of the Act;

"(e) The taking of emergency actions under subsection 305(e) of the Act;

"(f) The issuance of preliminary fishery management plans under subsection 201(g) of the Act; and

"(g) The approval, disapproval, partial disapproval or issuance of a fishery management plan or amendment under section 304 or 305 of the Act.

"3. The Administrator shall not redelegate beyond an Associate Administrator any of the final actions to be taken under those provisions of the Act set forth in subparagraphs 3.01dd.2 (a) through (g) of this order."

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc. 76-33639 Filed 11-12-76; 8:45 am]

[Department Organization Order 25-5A;
Amdt. 5; Transmittal 317]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization and Functions

OCTOBER 13, 1976.

This order effective October 13, 1976 further amends the materials appearing at 39 FR 27486 of July 29, 1974, 40 FR 36608 of August 21, 1975, 40 FR 42764 of September 16, 1975, and 40 FR 58882 of December 19, 1975.

Department Organization Order 25-5A, dated July 9, 1974, is hereby further amended as shown below. The purpose of this amendment is to delegate with certain reservations, the authority of the Secretary under the Coastal Zone Management Act, as amended, to the NOAA Administrator.

Section 3. Delegation of Authority. Subparagraph .01w. is revised to read as follows:

"w. The functions prescribed in the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), including those prescribed in Public Law 94-370, subject to the following excep-

tions and limitations whereby the Secretary reserves to himself the authority to:

"1. Provide general policy guidance to the Administrator and from time to time in his discretion, on his own initiative or at the request of the Administrator, to consult with the Administrator to the extent permitted by law concerning the functions delegated by this subparagraph .01w.

"2. Carry out the mediation function under section 307(h) of the Act and to make the findings under subsections 307 (c) (3) and 307(d) of the Act; and

"3. Approve initial regulations for the implementation of the coastal energy impact program contained in section 308 of the Act."

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc.76-33640 Filed 11-12-76; 8:45 am]

[Department Organization Order 25-5B;
Amdt. 3; Transmittal 324]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization and Functions

OCTOBER 10, 1976.

This order effective October 10, 1976 further amends the material appearing at 41 FR 795 of January 5, 1976, 41 FR 36061 of August 26, 1976 and 41 FR 43753 of October 4, 1976.

Department Organization Order 25-B5, dated December 4, 1975 is hereby further amended as shown below. The purpose of this amendment is to revise the organization structure of the National Marine Fisheries Service to better meet the new and expanded responsibilities in fisheries management resulting from the enactment of the Fishery Conservation and Management Act of 1976. Major changes include: an increase in the operational responsibilities of the NMFS Regional Offices; a decrease in the line management responsibilities of the NMFS headquarters staff offices; the consolidation of all fishery laboratories under four regional Fisheries Centers; the establishment of a central focus for scientific and socio-economic research guidance and evaluation; the establishment of a position for an Associate Director who will be the day-to-day manager of NMFS programs; the abolishment of the Offices of Resource Research, Resource Utilization and Resource Management; and the establishment of the new Offices of Scientific and Technical Services, Fisheries Management and Fisheries Development.

1. Section 13. National Marine Fisheries Service. This section is revised to read as follows:

"Section 13. National Marine Fisheries Service.

"The National Marine Fisheries Service (NMFS) shall conduct an integrated program of research and services related to the protection and rational use of living marine resources for their aesthetic,

economic, and recreational value by the American people. The Service shall administer programs to determine the consequences of the naturally varying environment and man's activities on living marine resources; to provide knowledge and services to foster their efficient and judicious use; and to achieve domestic and international management, use and protection of living marine resources. The Service shall be organized as set forth below.

"01 Office of the Director. The Director shall formulate and execute basic policies and manage the Service. He shall be immediately assisted by a Deputy Director and an Associate Director. The Deputy Director shall perform the functions of the Director in the latter's absence.

"02 The Office of International Fisheries shall serve as the focal point and have primary staff responsibilities for all matters involving international affairs within the purview of the NMFS. This shall include: coordinating all NMFS inputs to other government agencies, industry, other interested constituencies, and foreign and international entities; providing the overview of implementation throughout NMFS of NOAA policy decisions in the area of international affairs and all international negotiations in which NMFS is involved; acquiring data and providing analysis regarding the status and impact of present and projected foreign fishing efforts and foreign industry activities, and governmental attitudes and policies regarding fishing; and monitoring and coordinating activities with regard to the U.S. Fisheries Attache Program. It shall have responsibility for the NMFS Foreign Translation Program.

"03 The Office of Fisheries Development shall assist the Director in the planning, coordination and management of programs to assist the fishing industry, improve the quality and safety of fish and seafoods, and enhance the production, marketing and consumer awareness and acceptability of fishery products. The Office shall issue appropriate guidelines to the field and provide staff advice and review at the national level on (1) financial assistance programs in the form of loans, loan guarantees, loan insurance and a capital construction fund, (2) utilization technology as it affects the harvesting, processing, and marketing of fishery products and their use as human food, (3) programs of consumer education and marketing facilitate fishery development and stability in the marketing chain, (4) operation and review of a national market news system and preparation of market research reports, (5) integrated regionally oriented fisheries development programs designed to increase the market share of domestically produced seafoods, and (6) foreign trade and other matters which may affect the commercial fishing industry. In addition, it shall operate and manage a voluntary inspection and grading program, and develop

fishery product standards techniques for improving quality and safety of seafoods.

"04 The Office of Scientific and Technical Services shall assist the Director in the planning, coordination and management of research and technical programs nationwide. The Office shall provide the principal technical expertise necessary to advise the Director on biological, technological, and economic research objectives, the adequacy of scientific and technical programs, and to recommend actions necessary to insure their integration nationally. It shall provide policy interpretation and implementation guidance to Center and Regional Offices, as appropriate, for programs in marine habitat protection and other environmental concerns, including habitat investigations, fisheries oceanography, coastal zone management, the Columbia River Program, environmental impact statement review and liaison, and research in microconstituents. The Office shall serve as the Director's focus for the nationwide resource assessment program (MARMAP), aquaculture research, development of fishery research engineering, socio-economic research, and programs for statistics and data management in support of fisheries management and development responsibilities. As the principal headquarters focus for scientific expertise, the Office shall serve as the primary liaison with other government agencies and the scientific community on the national level in environmental and other scientific technical matters.

"05 The Office of Fisheries Management shall plan, develop, coordinate, and implement broad national criteria and operational guidelines for NMFS fisheries management responsibilities, including those associated with the State-Federal Fisheries Management Program, and assure adherence of fishery management plans to national standards and legislative requirements; provide policy advice and staff support to the Director, and issue policy interpretation and implementation guidance to regional offices. It shall review and analyze proposed fishery management plans to insure interregional compatibility and to assess potential impacts on NMFS programs; process and publish fisheries management regulations; process and issue fishing permits to foreign nationals; and provide interagency coordination and consistency of nationwide enforcement activities as related to fisheries regulations. The Office shall provide management overview of the Marine Mammal and Endangered Species Programs, including related research activities, and coordination with the Marine Mammal Commission and other agencies.

"06 a. The Field Structure shall consist of the following organizational elements:

A copy of Exhibit 2 is on file with the original of this document with the Office of the Federal Register.

(1) Five Regional Offices as shown in Exhibit 2. Regional Offices shall serve as the regional representative of the Direc-

tor with state conservation agencies, recreational interests, the fishing industry, other constituencies and the general public. Regional Offices shall plan, organize, and manage fishery management activities including regulatory requirements, fisheries plan development, fisheries development, recreational fisheries, and services throughout the program range of NMFS, including appropriate intergovernmental and international coordination. Regional Offices shall provide administrative and technical support to Regional Fishery Management Councils within the geographic area of responsibility as well as to other NMFS components within regional boundaries, administer Service grant and loan programs, and coordinate regional program planning and implementation as appropriate with the Regional Fisheries Centers.

"(2) The Northeast, Southeast, Northwest and Alaska, and Southwest Fisheries Centers shall plan, develop and manage multidisciplinary biological and socio-economic research programs necessary to provide fisheries management information and management options to the appropriate Regional Fisheries Management Councils, to support national and regional programs of the NMFS and to respond to the needs of various user groups. The Centers shall develop the scientific base for status of stocks, status of fisheries including both socio-economic and biological aspects, environmental assessment and environmental impact statements; collect, document, and interpret scientific and economic data as technical support for management plans, international negotiations, fishery development and food engineering programs; provide technical review and monitoring of fisheries plans and grant programs; pursue applied and fundamental research on specified topics such as marine mammals, endangered species, food science, fishing oceanography and aquaculture; and maintain liaison with the scientific community.

"b. The Southeast and Northeast Regions shall provide their own administrative support except where it is determined to be more practical and advantageous to NOAA to have the services furnished by other NOAA components. They shall provide such services to other NOAA components as directed. The Northwest, Southwest and Alaska Regions shall obtain administrative support from the Northwest Administrative Service Office at Seattle, Washington. The Fisheries Centers shall obtain administrative support from the nearest NMFS Regional Office, the Northwest Administrative Service Office, or such NOAA components as are determined to be the most practical and feasible."

2. The organization chart Exhibit 1, attached to this amendment, supersedes the organization chart dated September 7, 1976. A copy of Exhibit 2 is on file with the original of this document with the Office of the Federal Register.

3. The National Marine Fisheries Service Regional Organization Exhibit 2, attached to this amendment, (filed as part

of original document) supersedes the National Marine Fisheries Service Regional Organization dated December 4, 1975.

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc.76-33641 Filed 11-12-76;8:45 am]

[Department Organization Order 20-1;
Transmittal 325]

OFFICE OF ADMINISTRATION SERVICES AND PROCUREMENT

Organization and Functions

NOVEMBER 1, 1976.

This order effective November 1, 1976 supersedes the material appearing at 40 FR 31649 of July 28, 1975.

Section 1. Purpose.

.01 This order prescribes the functions and organization of the Office of Administrative Services and Procurement.

.02 This revision reflects the reassignment of functions among the units reporting to the Deputy Director for Program Development (subparagraphs 5.02a. and c.), minor functional changes among the units reporting to the Deputy Director for Procurement (subparagraphs 5.03a. and b.), restructure of the Research and Technical Assistance Division into two separate divisions (subparagraph 5.03c. and d.), and the transfer of ADP contracting services functions from the Materials and Services Contracts Division to the newly established Office of Automatic Data Processing Management (OADPM), subparagraph 5.03b.).

Section 2. Status and Line of Authority. The Office of Administrative Services and Procurement, a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration. The Deputy Director for Operations, provided for in section 5 below, shall perform the functions of the Director during the latter's absence. During the absence of both the Director and the Deputy Director for Operations, the Deputy Director for Program Development shall perform the functions of the Director.

Section 3. Functions. Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5 and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the Office of Administrative Services and Procurement shall:

a. Have Departmentwide staff responsibility for procurement and supply, library, space, motor vehicle, occupational safety and health, telecommunications and mail management, and certain aspects of records management as specified in Section 5;

b. Perform procurement for all elements of the Department, except as otherwise provided in Department Administrative Order 208-2, "Procurement Authority;" and

c. Provide services in the functional areas enumerated in subparagraph a. above required by the Office of the Sec-

retary and as relevant to elements of operating units located in the Main Commerce Building.

Section 4. Specified authority. In addition to the authority implicit in and essential to carrying out the functions assigned the Office and related to the exercise of such functions, the Director, Office of Administrative Services and Procurement:

a. Has been expressly delegated certain procurement authority in Department Administrative Order 208-2; and

b. Is hereby designated Claims Officer and delegated the authority vested in the Assistant Secretary for Administration by Department Administrative Order 203-22 to settle and pay claims for damage to, or loss of personal property incident to his service, under the provisions of 31 U.S.C. 240-243, filed by an employee (or his duly authorized representative) of the Office of the Secretary.

Section 5. Organization. Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below:

.01 The Deputy Director for Operations shall be the Director's principal assistant for operations and shall supervise the following divisions:

a. The Library Division shall provide library services for the Office of the Secretary and operating units located in the Main Commerce Building, serve as a reference source for libraries of operating units, and exercise Departmentwide staff responsibility for library management.

b. The Communications and Transportation Division shall exercise staff responsibility for the development of Departmentwide policies, and procedures in the areas of telecommunications, mail, motor vehicle, and traffic management. In addition, the Division shall provide the following services for the Office of the Secretary and elements of other operating units in the Main Commerce Building, assigned Commerce annexes, the Regional Commissions and, upon request, other outlying and independently operated buildings not regularly serviced by the Division: local telecommunications, mail and messenger services, travel arrangements, office machine repairs, receiving and shipping services, motor pool services, imprest fund services, internal distribution of publications, and forms inventory for the Department and its component agencies.

c. The Property and Buildings Management Division shall supervise real property and space management activities for operating units nationwide and shall serve as the principal liaison between operating units and the GSA headquarters and regional offices on all real property and space management matters, including Federal Building Fund transactions. The Division shall also exercise personal property utilization surveillance over all operating units nationwide; and it shall operate an automated personal property system for the Office of the Secretary and other designated operating units. The Division shall

be responsible for preparing the Commerce Telephone Directory; coordinating postage payments with the U.S. Postal Service; and providing labor services and building liaison services with GSA for all operating units in the Main Commerce Building.

d. The Records Management Division shall exercise staff responsibility for developing Departmentwide policies and procedures in the following areas of records management: (1) forms management; (2) files management; (3) records equipment and supplies management; and (4) records disposition management. The Division shall also provide files, records disposition, and forms management services for the Office of the Secretary and, as approved by the Assistant Secretary for Administration, for designated operating units headquarters in the Main Commerce Building. For the four specific functions enumerated in this paragraph, the head of the Division shall serve as Records Management Officer for the Department and as liaison officer therefor with the National Archives and Records Service.

.02 The Deputy Director for Program Development shall be the Director's principal assistant for the development, coordination, and supervision of Department wide procedures for functional areas as assigned by the Director. He shall also take such action as may be necessary to (1) determine and obtain compliance with Executive Order 11246 and related Executive Orders pertaining to equal opportunity in employment; and (2) set aside appropriate procurement needs for award to minority and other small business enterprises, as authorized by law. In so doing, he shall supervise the activities of the following organizations:

a. The Special Program and Project Officers shall develop and manage various special programs, administrative services management projects and various other functions, usually of a non-continuing or recurring nature as may be assigned to the Deputy Director for Program Development.

b. The Equal Opportunity and Contract Compliance Staff shall expand and promote the Department's small business and minority business procurement programs, assure contractor compliance with equal opportunity obligations, and act as equal employment opportunity counselor for the Office of the Secretary, the U.S. Travel Service, and such other offices as may be assigned.

c. The Program and Policy Division shall be responsible for review and development of Departmental policy positions on internal and interagency programs involving procurement and supply activities, as well as, proposed Federal and military procurement specifications, legislation, etc. Provides knowledgeable specialists to represent the Department in interagency study groups, committees, task groups, etc., established by OMB and GSA. Reviews and evaluates newly established or proposed Federal Procurement and/or Property Management Reg-

ulations determining the need to develop and issue resultant Departmental policies procedures or internal regulations. Observes and studies implementation of new policy and procedures to establish impact on operating activities. Processes procurement related actions to include Findings and Determinations for Secretarial signature; unsolicited proposals; withdrawal of bids; ratification requests; administrative actions related to contractor's protests lodged at levels higher than the Contracting Officer; mistake in bids, etc. Codifies procurement regulations in the Federal Register and Code of Federal Regulations, updates and maintains the Supply Management Handbook, establishes need for various training programs and other policy making activities as assigned. During his absence, the Chief, Program and Policy Division shall perform the functions of the Deputy Director for Program Development.

.03 The Deputy Director for Procurement shall serve as the Director's principal assistant on procurement and shall supervise the following divisions in performing procurement for all elements of the Department except as determined under the provisions of Department Administrative Order 208-2.

a. The Contract Administration Division shall administer all contracts, except as otherwise assigned, through final contract payment or other required final administrative disposition including decisions under disputes clauses, terminations, claims, and shall perform such other procurement actions, as assigned.

Additionally, it shall provide field contract administration services for OMBE.

b. The Materials and Services Contracts Division shall provide contracting services for supplies, equipment, construction, communication systems, architect, engineering and other service-type procurements including delivery orders against mandatory contracts, purchase orders on the open market, and other related procurement activities, as assigned.

c. The Research Contracts Division shall provide contracting services for all research, development, advanced studies and other related procurement activities, as assigned.

d. The Technical Assistance Contracts Division shall provide contracting services for all procurements providing for consulting, management and technical assistance where the recipient thereof is either the Department or a third party beneficiary, and other related procurement activities, as assigned.

Section 6. Department of Commerce Administrative Services Council. There shall be a Department of Commerce Administrative Services Council, which shall consist of the Director, Office of Administrative Services and Procurement, as Chairman, the Deputy Directors, and the chief administrative services officers of the operating units of the Department. The Council will meet on a call from the Chairman for the purpose of advising and assisting in the development of policy and programs for the

maximum effectiveness of administrative services throughout the Department.

JOSEPH E. KASPUTYS,

Assistant

Secretary for Administration.

[FR Doc. 76-33632 Filed 11-12-76; 8:45 am]

[Department Organization Order 20-14; Transmittal 327]

OFFICE OF AUTOMATIC DATA PROCESSING MANAGEMENT

Organization and Functions

NOVEMBER 1, 1976.

DEPARTMENT ORGANIZATION ORDER SERIES

This order is effective November 1, 1976.

Section 1. Purpose. This order establishes and prescribes the functions of the Office of Automatic Data Processing Management.

Section 2. Establishment and Transfers.

.01 The Office of Automatic Data Processing Management (OADPM) is hereby established as a Departmental Office which shall be headed by a Director who shall report, and be responsible to the Assistant Secretary for Administration. The Chief, ADP Policy Division, whose responsibilities are described in Section 5.01 below, shall act as, and perform the functions of, the Director in the latter's absence.

.02 The functions, personnel, funds, property and records of the ADP Management Division and the ADP Operations Division, Office of Organization and Management Systems and those functions, personnel, funds, property and records associated with ADP contracting services in the Materials and Services Contract Division of the Office of Administrative Services and Procurement are hereby transferred to OADPM.

Section 3. Functions. Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives that the Assistant Secretary may prescribe, the Office shall provide a full range of ADP services including development of Departmentwide ADP policy, procurement of ADP equipment and services, and operation of a central computer facility for the Office of the Secretary and designated operating units. The Office shall serve as a focal point for dealing with the Office of Management and Budget (OMB), General Services Administration (GSA), General Accounting Office (GAO), Office of Telecommunications Policy (OTP) and other central control agencies on ADP matters.

Section 4. Specified Authority. The Director, OADPM has been expressly delegated certain ADP procurement authority in Department Administrative Order 208-2.

Section 5. Organization. Under the direction and supervision of the Director, the functions of the Office shall be organized and executed as provided below:

.01 The ADP Policy Division shall develop and monitor the execution of

plans, policies and procedures for the management, acquisition and use of automatic data processing (ADP) resources within the Department. It shall evaluate ADP systems requirements and proposed acquisitions of computer hardware, software and services by the units of the Department, and make appropriate recommendations to the Office Director; promote standard practices for computer facility management and operation, and coordinate the implementation of Federal information processing standards within the Department; develop, implement and direct a program for computer and facility performance evaluations drawing on personnel resources from the Office of Audits and other organizations from within the Department of Commerce; provide advice and consultation to units of the Department on computer hardware and software management and acquisition; and review and refine specifications for ADP equipment, software and services procurement.

.02 The ADP Procurement Division shall provide contracting services for ADP equipment, software and services, and shall serve as the interface with the Automatic Data Processing and Telecommunications Service of GSA, and the GAO on ADP matters.

.03 The ADP Operations Division shall operate a central computer facility for the Office of the Secretary and for designated operating units or selected ADP applications of operating units. The Division's services shall include detailed design and programming of specific ADP applications as assigned.

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc.76-33634 Filed 11-12-76; 8:45 am]

[Department Organization Order 21-1;
Transmittal 319]

OFFICE OF ENERGY AND STRATEGIC RESOURCE POLICY

Organization and Functions

OCTOBER 13, 1976.

This order effective October 13, 1976 supersedes the material appearing at 41 FR 801 of January 1, 1976.

Section 1. Purpose. This order establishes and prescribes the functions of the Office of Energy and Strategic Resource Policy.

Section 2. Redesignation and Transfers. Pursuant to the authority vested in the Assistant Secretary for Policy by Department Organization Order 10-2 of May 19, 1976, the Office of Energy Policy and Programs was redesignated as the Office of Energy and Strategic Resource Policy. The energy policy coordination functions of the former Office of Energy Policy and Programs and the functions of the former International Commodities Division, Domestic and International Business Administration, along with the associated personnel, funds, prop-

erty and records have been transferred to the Office by means of Department Organization Order 10-3 of May 19, 1976.

Section 3. Status and Line of Authority. The Office of Energy and Strategic Resource Policy, a Departmental office, shall be headed by a Deputy Assistant Secretary for Energy and Strategic Resource Policy who shall report, and be responsible, to the Assistant Secretary for Policy.

Section 4. Functions. The Office of Energy and Strategic Resource Policy shall function as a special development and coordination group on energy, commodity, strategic resource and ocean policy matters of direct concern to the Secretary and the Assistant Secretary for Policy. In this capacity, the Office shall:

a. In consultation with the appropriate Departmental Offices and operating units, develop, recommend and coordinate the formulation of Departmental energy, commodity, strategic resource and ocean policies, and provide staff support to the Assistant Secretary for Policy in the establishment of Departmental policy direction for these areas;

b. Coordinate and provide, as appropriate, in consultation with other Departmental offices and operating units involved, policy and commentary regarding legislative proposals related to energy, commodity, strategic resource and ocean matters;

c. Provide direct staff support to and, as directed, chair committees established under the Department of Commerce Policy Council related to energy, commodity, strategic resource and ocean matters;

d. Provide staff assistance and support for the Secretary's (as Chairman) and Departmental participation in the Energy Resources Council, and for Departmental participation in the EPB/NSC Commodities Policy Coordinating Committee and any other policy level interagency or other committees established to deal with policy matters related to energy, commodities, strategic resources and oceans;

e. Provide policy direction to the monitoring of certain energy-related commodities for short supply export controls; and

f. Maintain cognizance of and analyze developments affecting U.S. imports of, or international trade in, primary commodities including coffee, tin, lead, zinc, tungsten, sulphur, cocoa, and rubber; participate in interagency work on U.S. quota systems involving international commodity trade, and work (with the Department of State and other Departments) on all phases of international discussions and negotiations in basic commodities.

Section 5 Effect on Other Orders. This order supersedes Department Organization Order 25-7B of December 3, 1975.

JOSEPH E. KASPUTYS,
Assistant
Secretary for Administration.

[FR Doc.76-33635 Filed 11-12-76; 8:45 am]

[Department Organization Order 20-7;
Transmittal 326]

OFFICE OF ORGANIZATION AND MANAGEMENT SYSTEMS

Organization and Functions

NOVEMBER 1, 1976.

This order effective November 1, 1976 supersedes the material appearing at 41 FR 5858 of February 10, 1976.

Section 1. Purpose.

.01 This order prescribes the functions and organization of the Office of Organization and Management Systems.

.02 This revision reflects the transfer of the ADP Management Division and the ADP Operations Division to the newly established Office of Automatic Data Processing Management; establishes the Directives Management Branch within the Management Analysis Division (Section 4.01.b.), and updates the functional statement of the Information Management Division (Section 4.03).

Section 2. Status and Line of Authority. The Office of Organization and Management Systems (OOMS), a Departmental office, shall be headed by a Director, who shall report and be responsible to the Assistant Secretary for Administration. The Director shall be assisted by a Deputy Director, who shall perform the functions of the Director during the latter's absence.

Section 3. Functions.

.01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary may prescribe, the office shall:

a. Perform, on a Departmentwide basis, management consulting, organizational review, management improvement, directives management, financial systems management, information management, and related management service functions, as specified in Section 4.

b. Exercise such authorities of the Assistant Secretary for Administration as are implicit in and essential to carry out the functions assigned by this Order.

.02 The Director shall be the adviser to, and representative of, the Assistant Secretary for Administration for organization and management matters, and shall serve as adviser to other Department officials with respect to these matters.

Section 4. Organization. Under the direction and supervision of the Director, assisted by the Deputy Director as determined by the Director, the functions of the Office shall be organized and carried out as provided below:

.01a. The Management Analysis Division shall plan and conduct management studies and surveys of the Department or of specific organization units or functions, as requested or approved; direct or participate in joint task force activities involving other elements of Administration or of the Department; conduct activities to promote management improvement efforts by organizations of the Department and to stimulate the use

and extension of effective management tools and techniques; and, as directed, develop and institute new or revised policies, requirements, standards, and procedures on Department-wide management and administrative matters. The Division is also responsible for analyzing proposed changes to the Department's primary organization structure and for reviewing proposed legislation and proposals within the Executive Branch involving organizational matters affecting the Department. The Division shall work with its counterpart organizations within the operating units to improve and coordinate the management analysis function throughout the Department.

b. The Division's Directives Management Branch shall serve as the principal staff component of the Department on directives, reports and correspondence; assuring compliance with Government-wide directives from the Executive Office of the President, including the assignment of responsibility for response and/or implementation; and for managing the system for promulgating the Department's primary organization structure.

.02 The Administrative Systems Division shall formulate policy and standards applicable to accounting matters, the coordination and integration of all administrative systems of a financial nature including those operating in an automated environment, and the development of unit costs for planning and controlling operations. The Chief of the Division serves as Chairman of the Department's Finance Council.

The Division is also responsible for reviewing accounting systems design and financial systems implementation for approval; assisting in the improvement of accounting systems; coordinating accounting practices; and providing liaison with central agencies on accounting matters and on administrative systems matters.

.03 The Information Management Division shall develop policies, procedures, standards, and relevant rules and orders to assure Department compliance with the provisions of the Freedom of Information Act as amended, the Privacy Act of 1974, the Federal Advisory Committee Act, the Government in the Sunshine Act, and the Federal Reports Act of 1942; monitor policy compliance by units of the Department; review the units' implementation of the rules and orders; function as the focal point in coordination with the Department's Office of General Counsel for the Department's administration of the referenced statutes; supplement and support the functions of the Commerce Information Policy Issues Committee; and serve as the principal staff component of the Department on information management, public-use reports control, and committee management functions.

JOSEPH E. KASPUTYS,

Assistant

Secretary for Administration.

[FR Doc.76-33633 Filed 11-12-76;8:45 am]

[Department Organization Order 21-2;
Transmittal 320]

OFFICE OF POLICY DEVELOPMENT AND COORDINATION

Organization and Functions

OCTOBER 13, 1976.

This order is effective October 13, 1976.
Section 1. Purpose. This order establishes the Office of Policy Development and Coordination and prescribes its functions.

Section 2. Establishment and Transfers. Pursuant to the authority vested in the Assistant Secretary for Policy by Department Organization Order 10-2 of May 19, 1976, the Office of Policy Development and Coordination was established as a Departmental office. The functions, personnel, funds, property, and records of the former Office of Policy Development (former Department Organization Order 15-4) are transferred to it.

Section 3. Status and Line of Authority. The Office of Policy Development and Coordination shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Policy. The Director shall be designated as Deputy Assistant Secretary for Policy Development and Coordination.

Section 4. Functions. The Office of Policy Development and Coordination shall function as a coordinative office for analysis and development of selected policy issues which cut across agencies, and as a special problem-solving and conceptual group on selected policy matters of direct concern to the Assistant Secretary for Policy. In this capacity, the Office shall:

a. Provide advice on policy development matters and, as assigned, coordinate selected policy issues as may be appropriate or required in support of Departmental responsibilities and Secretarial initiatives;

b. Conduct special operations research, analysis, problem solving, and conceptual work by undertaking or coordinating studies, by developing proposals, and by evaluating matters having a vital impact on the Department's mission, objectives, and accomplishments;

c. Develop and coordinate preparation of proposals with respect to the future role of the Department in establishing national policies and in providing needed services in light of changing national needs;

d. Analyze the potential effect upon the Department and its programs of outside events, trends, proposals, and other developments;

e. Provide a source of expertise on major policy issues which are of the utmost confidentiality and urgency;

f. As assigned, provide coordination within the Department and liaison with other government agencies and the private sector as required for the achievement of Secretarial and Departmental policy objectives;

g. Provide policy input in the development and review of legislative proposals having a major impact on Commerce mission, objectives, and programs;

h. Provide assistance and coordination for the Commerce Policy Council (established by the Secretary on July 14, 1975 and revised by Secretary's Circular 24 of May 18, 1976) and the Council's Executive Committee;

i. Serve as the focal point for Department of Commerce liaison and coordination with the Water Resources Council; provide the Chairman of the Commerce Water Resources Committee, (established by DAO 216-2) and the Secretary's Alternate and Secretary's Representative to the Water Resources Council and

j. Perform other related duties as assigned.

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc.76-33636 Filed 11-12-76;8:45 am]

[Department Organization Order 21-3;
Transmittal 321]

OFFICE OF REGULATORY ECONOMICS AND POLICY

Organization and Functions

OCTOBER 13, 1976.

This order is effective October 13, 1976.

Section 1. Purpose. This order establishes the Office of Regulatory Economics and Policy and prescribes its functions.

Section 2. Establishment and Transfers. Pursuant to the authority vested in the Assistant Secretary for Policy by Department Organization Order 10-2 of May 19, 1976, the Office of Regulatory Economics and Policy was established. The functions, personnel, funds, property, and records of the Office of Environmental Economics, formerly within the Office of the Assistant Secretary for Economic Affairs, are transferred to it.

Section 3. Status and Line of Authority. The Office of Regulatory Economics and Policy, a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Policy.

Section 4. Functions. The Office of Regulatory Economics and Policy shall function as an analysis, review and coordination group on regulatory policy matters of direct concern to the Secretary and the Assistant Secretary for Policy. In this capacity, the office shall:

a. Conduct studies, as directed, which will: identify significant impacts on the economy of potential or actual Federal actions; and help identify alternative means of achieving desired national objectives in a way which will minimize adverse economic consequences;

b. Analyze the implications for the economy of: potential major new Federal statutes, regulations, programs, or other actions; and the elimination or modification of existing Federal statutes, regulations, programs, or other actions. This shall include quantitative and qual-

itative analyses of the direct and indirect, short and long term, domestic and international, impacts of regulatory programs and related activities on the economy, its producing and consuming sectors and its geographic areas. Particular attention shall be given to the interrelationship among regulations and to the costs and benefits of regulations. The office shall perform this function in a lead role, on a Departmentwide basis, through its staff or by coordinating the efforts of other units within the Department;

c. Conduct studies, as directed, in anticipation of regulatory issues of significance to the Department and other studies at the request of the Department's Regulatory Policy Committee;

d. Conduct analyses, as directed, which will: improve data essential for regulatory assessments; provide factual information and data essential to the development of Departmental policy positions, and improve the methodology for assessing the costs and benefits of regulatory actions;

e. Conduct, on a continuing basis, substantive reviews of Departmental in-house and contractual studies which deal with regulations and related matters. The office shall review study plans, studies in progress, and final reports for the adequacy of the methodology and the relationship of methodology to findings, recommendations and policy implications. This function will be performed as part of the Departmental clearance process for the Regulatory Policy Committee in coordination with the General Counsel and with the cooperation of Department units; and

f. Conduct, or assist in, as appropriate, the representation of Commerce views to the Office of Management and Budget, the Economic Policy Board, the Domestic Council, and other organizations concerned with regulatory matters.

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc.76-33637 Filed 11-12-76;8:45 am]

[Department Administrative Order 208-2;
Amdt. 4; Transmittal 260]

OFFICE OF ORGANIZATION AND MANAGEMENT SYSTEMS AND OFFICE OF PROGRAM EVALUATION

Delegation of Authority

This order effective April 22, 1976 further amends the material appearing at 39 FR 6750 of February 22, 1974, 39 FR 35195 of September 30, 1974 and 39 FR 36126 of October 8, 1974.

Department Administrative Order 208-2, dated January 2, 1974 is hereby further amended as shown below. The purpose of this amendment is to define "evaluation services," to require prior approval of the procurement of such services, and to require the filing of final management consulting and evaluation service reports by the contractor with the Office of Organization and Management Systems and Office of Program Evaluation respectively.

1. Section 2. Definitions. A new paragraph .07 is added to read as follows:

".07 "Evaluation Services" means any survey, study analysis, or consultation concerned primarily with review of (a) the achievement of program objectives, impacts, or results and/or (b) the extent to which program or management structures, systems, or other arrangements facilitate such achievement. Some evaluation services may also be management consulting services, as defined in paragraph 2.05."

2. Section 5. Limitations Relating to Delegated Procurement Authority. Paragraph .02 is revised to read as follows:

".02a. With respect to the procurement of management consulting and/or evaluation services by contract, where the total cost of the contract or any supplement thereto is expected to exceed \$10,000, the approval of the proposed procurement shall be obtained from the Assistant Secretary for Administration prior to submission of the procurement request.

"b. Staff review of proposed procurements of management consulting and evaluation services shall be carried out by the Office of Organization and Management Systems and the Office of Program Evaluation respectively.

"c. With respect to procurement of management consulting services, the contract document shall require that a copy of the contractor's final report be filed with the Office of Organization and Management Systems. With respect to procurement of evaluation services, it shall require that a copy of the final report be filed with the Office of Program Evaluation."

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc.76-33643 Filed 11-12-76;8:45 am]

[Department Administrative Order 208-2;
Amdt. 5; Transmittal 272]

DIRECTOR, OFFICE OF AUTOMATIC DATA PROCESSING MANAGEMENT

Delegation of Authority

This order effective November 1, 1976 further amends the materials appearing at 39 FR 6750 of February 22, 1974, 39 FR 35195 of September 30, 1974 and 39 FR 36126 of October 8, 1974.

Department Administrative Order 208-2, dated January 2, 1974 is hereby further amended as shown below. The purpose of this amendment is to delegate to the Director, Office of Automatic Data Processing Management the authority to procure ADP equipment and services.

1. Section 4. Procurement Authority of Operating Units and Departmental Offices. A new paragraph .07 is added to read as follows:

".07 The Director, Office of Automatic Data Processing Management is delegated procurement authority for ADP equipment and services, subject to the conditions and limitations provided in Section 5. of this order. The Director may redelegated such authority."

2. Section 5. Limitations Relating to Delegated Procurement Authority. Paragraph .04 is revised to read as follows:

".04 All Department findings and determinations justifying sole source procurement of Automated Data Processing Equipment (ADPE) in excess of \$10,000 by either lease or purchase shall be submitted to the Director, Office of Automatic Data Processing Management. Review and approval of these findings and determinations shall be made in accordance with the provisions of the General Services Administration's Federal Management Circular 74-5, and Department Administrative Order 212-1, as amended."

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc.76-33644 Filed 11-12-76;8:45 am]

Office of the Secretary SECRETARY'S ADVISORY COUNCIL Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting.

The Secretary's Advisory Council will meet from 2:00 p.m. to 5:00 p.m. on December 17, 1976 at the Department of Commerce, Room 4830, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

The recently established Secretary's Advisory Council, which is made up of a cross-section of distinguished leaders of industry, services, labor, consumers, and the academic community, is to advise the Secretary of Commerce on the broad policy objectives and goals of the Department. The Council may identify and make recommendations concerning current and proposed policies and programs in all areas of the Department's responsibilities. The issue to be addressed at this Council meeting is that of "Investment Policy and Capital Formation."

The agenda for the meeting is:

- (1) Introduction by the Secretary of Commerce.
- (2) Discussion on the issue of "Investment Policy and Capital Formation."
- (3) Discussion of other topics, as introduced by the Council members.

The meeting will be open to the public and press. The public will be permitted to file written statements with the Council before or after the meeting. To the extent time is available, the presentation of oral statements will be allowed.

Copies of the minutes will be available upon written request 60 days after the meeting.

Inquiries may be addressed to the White House Fellow, Room 5896, Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230 (telephone 202/377-5555).

Dated: November 9, 1976.

MARY LYNN MYERS,
White House Fellow,
U.S. Department of Commerce.

[FR Doc.76-33568 Filed 11-12-76;8:45 am]

TRAVEL ADVISORY BOARD

Meeting

As noted in the *FEDERAL REGISTER* dated October 22, 1976, on page 46633, a meeting of the Travel Advisory Board of the U.S. Department of Commerce will be held on November 30, 1976, at 9:30 a.m., in Room 4830, of the Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Established in July, 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce to serve two-year terms.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended.

Agenda items are as follows:

1. Introduction by the Assistant Secretary for Tourism.
2. Status of 1977 Advertising Strategies.
3. Status of Expo '81.
4. Status of World Tourism Organization.
5. Status of 1977 Domestic Program.
6. Transition.
7. Adjournment.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements will be allowed.

Melinda Carr, Acting Director of Media Services, of the United States Travel Service, Room 1519, U.S. Department of Commerce, Washington, D.C. 20230, (telephone 202/377-4987) will respond to public requests for information about the meeting.

CREIGHTON HOLDEN,
Assistant Secretary for Tourism,
U.S. Department of Commerce.

[FR Doc.76-33531 Filed 11-12-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

SPECIAL COMMISSION ON THE UNITED STATES MILITARY ACADEMY

Closed Meeting

1. In accordance with section 10(a) (2) of The Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of committee: The Special Commission on the United States Military Academy.

Date of meeting: 1-2 December 1976.

Place: The Pentagon, Washington, D.C.

Time: 0900-1700 hours, 1 December and 0900-1700 hours, 2 December 1976, unless additional time is required to complete necessary tasks in which event the sessions may extend beyond 1700 hours.

Proposed agenda: The Commission will meet from 0900-1700 hours on both 1-2 December 1976 (unless additional time is required to permit the completion of necessary tasks in which event the sessions may extend beyond 1700 hours) to discuss the eight questions posed by the Secretary of the Army (FR September 3, 1976) and all materials related thereto including actual cases and interviews and to formulate these materials into a draft report.

These sessions will be closed to the public since the Commission will be addressing matters directly involved with the Electrical Engineering 304 cheating incident and the alleged Honor Code Violations resulting therefrom. An integral and inseparable portion of the subject matter of the closed sessions will involve discussions and review of personnel and similar files as well as transcripts of personal interviews of individuals, many of whom have cases still pending. The public disclosure of this information would constitute a clearly unwarranted invasion of personal privacy of the individuals concerned. These matters are exempt from public disclosure under Title 5, U.S.C., section 552(b) (6). Accordingly, it has been determined necessary to close the 1-2 December 1976 meeting to the public pursuant to section 10(d) of Pub. L. 92-463, The Federal Advisory Committee Act.

2. Persons wishing additional information on the above scheduled meeting may write the Executive Director, Room 3E721, The Pentagon, Washington, D.C. 20310 or may telephone the Executive Director at 202-695-6184.

Dated: November 10, 1976.

By authority of the Secretary of the Army:

R. S. SEEBERG,
LTC, US Army, Acting Director,
Administrative Management,
TAGCEN.

[FR Doc.76-33673 Filed 11-12-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GENERAL ADVISORY COMMITTEE

Meeting

Pursuant to provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) in accordance with the purpose of section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036) and section 104(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5814), notice is hereby given that the General Advisory Committee will hold a meeting on November 30 and December 1, 1976, at Argonne, Illinois. The following constitutes that portion of the Committee's agenda for the above meeting which will be open to the public. These sessions will be held on November 30 and December 1 in Room B002, Building 223, Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60439. Visitors may obtain directions at the Visitors' Reception Center at 9700 South Cass.

NOVEMBER 30

- 9 to 10 a.m.--- Overview of Argonne national laboratory programs.
- 10 to 12 m.---- Briefings on Argonne national laboratory programs.
- 12 to 1 p.m.---- Briefings on Fermilab programs.
- 2 to 2:30 p.m.--- Overview of Chicago operations office programs.
- 2:30 to 3:30 p.m. Briefings on Chicago operations office programs.

DECEMBER 1

- 8 to 9 a.m.----- Briefing on ERDA's safeguards programs.
- 9 to 10:30 a.m. Briefings on ERDA's utility task force.
- 10:30 to 12 m. Briefing on activities of the task force on demonstration projects as a commercialization incentive.
- 1:30 to 2:30 p.m. Briefing on ERDA's conservation methodology.
- 2:30 to 4 p.m. Briefing on ERDA's conservation strategy.

In addition to the above agenda items, the Committee will meet with ERDA Headquarters and field staff, and hold executive sessions not open to the public under the authority of section 10(d) of Pub. L. 92-463 as follows:

NOVEMBER 30

- 3:30 to 5:30 p.m.----- Discuss and exchange views on major policy concerns raised during the open sessions.

DECEMBER 1

- 4 to 5 p.m.----- Discuss and exchange views on major policy concerns raised during the open sessions.

Those sessions will involve the exchange of opinions and formulation of recommendations on the above agenda topics exempt from disclosure under 5 U.S.C. 552(b) (5).

I have determined that it is necessary to close these portions of the meeting to exchange opinions and formulate recommendations, the discussion of which, if written would fall within exemption (5) of 5 U.S.C. 552(b). Any non-exempt material that may be discussed at these sessions will be inextricably intertwined with the discussion of exempt material and no further separation is practical. It is essential to close such portions of the meeting to protect such privileged information and to protect the free interchange of internal views and avoid undue interference with Administration and Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by

mailing 13 copies thereof, postmarked no later than November 22, 1976, to the Secretary, General Advisory Committee, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be based on the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on November 29, 1976, to the Office of the Secretary of the Committee on (202) 376-4678 between 8:30 a.m. and 5 p.m., eastern time.

(c) Questions at the meeting may be propounded only by members of the General Advisory Committee.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY PEEBLES,
Deputy Advisory Committee
Management Officer.

[FR Doc.76-33537 Filed 11-12-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION EXCEPTIONS AND APPEALS

Issuance of Decisions and Orders for September 20 Through September 24, 1976

Notice is hereby given that during the week of September 20 through September 24, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

*Atlantic Richfield Co.; Los Angeles, Calif.;
FEA-0833; Refined Petroleum Products*

The Atlantic Richfield Company (Arco) appealed from a Remedial Order which had been issued to the firm by FEA Region IX. In the Remedial Order, the Director of the Compliance Division of the Regional Office found that Arco had improperly calculated the May 15, 1973 price for covered petroleum products which it had sold to Fleet Supplies, Inc. (Fleet) and thereby violated § 212.82 of the FEA Regulations and § 150.355 of the Cost of Living Council Regulations. The Remedial Order directed Arco to immediately adjust its prices for the covered petroleum products which it sells to Fleet and to compute the dollar amount of overcharges, plus interest, which it obtained in its sales transactions during the period August 20, 1973

through April 14, 1976, and to refund those overcharges within 30 days. In a Decision and Order issued to Arco on May 20, 1976, the FEA Office of Exception and Appeals stayed those provisions of the Remedial Order which required Arco to refund prior overcharges to Fleet pending a final determination on Arco's Appeal. *Atlantic Richfield Co., 3 FEA Par. 85,034 (May 20, 1976).*

In the Remedial Order, FEA Region IX found that Arco had attempted to retroactively increase the price of the petroleum products which it had sold the firm in May of 1973. According to the findings reached, Fleet did not receive written notice of Arco's retroactive billing until September 1973 and did not make additional payments until October 5, 1973. In the Remedial Order, FEA Region IX concluded that under the circumstances presented, the maximum allowable prices which Arco should be permitted to charge Fleet for the covered petroleum products should be determined on the basis of the prices which Arco originally charged Fleet in May 1973. Since the prices which Arco had been charging Fleet were based on the prices billed in September 1973 instead of on the prices originally paid for the May deliveries, the Remedial Order found Arco in violation of the FEA price regulations.

On the basis of a review of the findings and conclusions set forth in the Remedial Order, the FEA concluded that the determinations reached were based on substantial evidence and should be sustained on Appeal. In the Decision which it issued, the FEA held that the record of the prior proceeding contained sufficient evidence that the May 15, 1973 price which Arco initially billed Fleet was the actual price which Fleet was charged on that date and that the initial billing should therefore be regarded as controlling in calculating the maximum price which Arco may charge Fleet. The FEA also found no evidence to support Arco's contention that the Remedial Order was procedurally defective. Accordingly, Arco's Appeal was denied and the stay which was previously granted to the firm was vacated.

*Atlantic Richfield Co.; Los Angeles, Calif.;
FEA-0941; Freedom of Information*

The Atlantic Richfield Company (Arco) appealed from a partial denial by the FEA Information Access Officer of a Request for Information which the firm submitted under the Freedom of Information Act (the Act). In its initial request, Arco had requested all documents pertaining to an Application for Reassignment of Supply Obligation filed by R. H. Rash and all documents relating to a Notice of Probable Violation (NOPV) issued to Arco by the FEA on December 9, 1975. The FEA Information Access Officer released certain documents while withholding other material on the grounds that the documents withheld were exempt from public disclosure under the Act. On Appeal, Arco contended that certain documents which were withheld were subject to mandatory disclosure, and that other documents existed which the Information Access Officer had failed to identify and disclose. In the Appeal Decision which it issued, the FEA held that one of the documents involved in the proceeding, entitled FEA Investigation Plan-Narrative Supplement, was properly withheld since it contained opinions, advice and recommendations of an investigator which were part of the deliberative process by which the agency formulated its policies. It was also determined that release of the document would impede an ongoing investigation of Arco. The FEA also held that several memoranda of telephone conversations which were purely factual in nature were improperly withheld

under the Act and directed that they be released to Arco. However, other telephone memoranda and notes of meetings were properly withheld since the factual material contained in those notes was inextricably intertwined with opinions, advice and analysis. In addition, the FEA found that release of these telephone and meeting memorandum notes would impede an ongoing enforcement proceeding against Arco. With respect to Arco's request for all draft NOPV's which preceded the final NOPV issued to Arco on December 9, 1975, the FEA held that these drafts were properly withheld from disclosure since their release would inhibit the free flow of ideas during the agency's decision-making process. With respect to the remaining documents which Arco sought, the FEA found that the public disclosure of the material involved had already been denied in another Appeal which Arco had filed under the Freedom of Information Act.

BP Oil, Inc.; Cleveland, Ohio; Motor Gasoline

BP Oil, Inc. (BP) filed an Appeal from an Interpretation which had been issued to it by the General Counsel of the FEA. In the Interpretation, the General Counsel held that § 212.112 of the Mandatory Petroleum Price Regulations does not permit BP, a wholly-owned subsidiary of the Standard Oil Company of Ohio (Sohio), to calculate its maximum permissible selling prices for unleaded gasoline on a separate basis from Sohio. The General Counsel determined that the refinery price rules (10 CFR, Part 212, Subpart E) apply to each entire "firm", including subsidiaries, and that BP therefore cannot determine unleaded gasoline prices separately from Sohio. In its Appeal, BP requested that the Interpretation be rescinded as erroneous. After considering the arguments advanced by BP, the FEA concluded that the definition of the term "firm" contained in the refinery price rules at § 212.82, rather than the more general definition of the term "firm" set forth at 10 CFR 212.31, is controlling in the present case. The relevant definition provides that "firm" means "a parent and the consolidated and unconsolidated entities (if any) which is directly or indirectly controls". 10 CFR 212.82. Furthermore, the FEA found that the definition contained in § 212.82 has always applied to a refinery's determination of its selling prices for unleaded gasoline, despite the fact that prior to April 12, 1976 the definition appeared at § 212.83 rather than Section 212.82 of the refinery price rules. The FEA therefore sustained the Interpretation which the General Counsel had issued.

*Diamond Shamrock Corp.; Amarillo, Tex.;
FEA-0873; Natural Gas Liquid Products*

Diamond Shamrock Corporation (Shamrock) appealed from a Decision and Order issued to it on June 7, 1976. *Diamond Shamrock Corp., 3 FEA Par. 83,212 (June 7, 1976).* In the June 7 Decision, the FEA granted Shamrock prospective exception relief from the provisions of 10 CFR 212.165 and thereby permitted the firm to increase the prices it charges for natural gas liquid products by \$.107 per gallon to reflect non-product cost increases. The FEA also granted retroactive relief for the period January 1, 1976 through March 3, 1976. Shamrock's Appeal, if granted, would permit the firm to retroactively recover all revenues which it would have realized if the June 7 Decision and Order had been issued on January 1, 1976. In considering the Appeal, the FEA determined that Shamrock had not been restricted by the FEA regulations from increasing its prices by \$.005 per gallon to reflect non-product cost increases after the base period

profit margin limitation had been rescinded on March 3, 1976. With respect to the firm's further argument that the prospective exception relief granted in the June 7 Decision should be approved on a retroactive basis as well, the FEA found that Shamrock had failed to demonstrate that it would experience a severe and irreparable injury in the absence of retroactive relief or present any compelling reason why such relief was warranted.

Ginsburg, Feldman and Bress; Washington, D.C.; FEA-0935; Freedom of Information

The law firm of Ginsburg, Feldman and Bress (Ginsburg) appealed from an Order issued to it under the Freedom of Information Act, 5 U.S.C. (the Act), which denied its request for copies of certain documents relating to the issuance of FEA Ruling 1975-12. In the Order which was issued, the FEA Information Access Officer determined that five of the documents which Ginsburg sought were intra-agency memoranda which are exempt from mandatory public disclosure under section 552(b)(5) of the Act, a sixth document contained geological and geophysical information which was exempt pursuant to section 552(b)(9) of the Act and portions of a seventh document were not responsive to Ginsburg's original Request for Information. In considering the Appeal, the FEA determined that the five documents withheld under section 552(b)(5) were correctly found to be exempt since they are pre-decisional documents which discuss initial proposals and tentative recommendations which were used in ultimately formulating Ruling 1975-12. Since that Ruling sets forth the agency's effective law and policy in a definitive manner, the pre-decisional memos withheld fall within the exemptions of that Act. However, a portion of one of the documents which contains only factual material was ordered released. The author of the sixth document, a party outside of the Government, advised the Office of Exceptions and Appeals that it had no objection to the release of the major portion of the document. That material was as a result also released. Finally, the FEA affirmed the Information Access Officer's determination that the material deleted from the seventh document is not responsive to Ginsburg's Request except with respect to a portion of one page of the document which the FEA determined should have been released.

Mobil Oil Corp.; New York, N.Y.; FEA-0814; Crude Oil

Mobil Oil Corporation (Mobil) appealed from a Decision and Order which had been issued to it by the FEA Office of Regulatory Programs. In that Order, a crude oil refinery which Mobil operates in Ferndale, Washington was designated as a "second priority refinery" for purposes of the FEA Canadian Crude Oil Allocation Program. The Appeal, if granted, would result in the issuance of an Order reclassifying the Ferndale refinery as a "first priority refinery," and thereby increase the volume of Canadian crude oil which Mobil is entitled to purchase. In its Appeal, Mobil contended that the prior Order was erroneous in fact and law and arbitrary and capricious since the firm is allegedly unable to obtain sufficient crude oil from non-Canadian sources to operate the refinery at levels equivalent to 75 percent of its crude oil runs to stills during the base period for the Canadian Program. In considering the Appeal, the FEA found that Mobil had provided no factual material in support of its principal assertion that the firm is unable to locate an adequate source of supply of low-sulphur crude oil for the Ferndale refinery. The FEA further concluded that Mobil failed

to establish that the Ferndale refinery's port, marine docking or storage facilities cannot physically accommodate adequate quantities of crude oil to permit the refinery to operate at 75 percent of its base period runs to stills. The Appeal was therefore denied.

Newhall Refining Co., Inc.; Newhall, Calif.; FEA-0930; Crude Oil

Newhall Refining Company, Inc. (Newhall) appealed from the Entitlement Notice for the month of May 1976 which the FEA issued on July 19, 1976. The Appeal, if granted, would relieve Newhall of the obligation to purchase entitlements valued at \$396,067.36. The entitlement obligation involved in this matter resulted from adjustments to Newhall's crude oil receipts and runs to stills for the month of February 1976 which were reflected in an amended entitlements report which Newhall filed on June 2, 1976. In considering the Appeal, the FEA observed that as a result of the adjustments Newhall was obligated to purchase entitlements in July with respect to its receipt of crude oil in February. However, during February 1976, Newhall had been exempted from any entitlement purchase obligation under section 403(a) of the Energy Policy and Conservation Act (EPCA) and Section 3 of Special Rule No. 6. The FEA determined that, although Newhall may be required to file reports in which it indicates its actual crude oil receipts and to correct those reports when it receives more accurate data as to those crude oil receipts, those reports may not be used to require Newhall to purchase entitlements with respect to crude oil which Newhall received during a period when the statutory entitlement purchase exemption was in effect. The FEA concluded that the exemption of Newhall's crude oil receipts in February is not effectively removed merely because Newhall filed a report to correct the record as to its actual receipts. The firm's Appeal was therefore granted permitting Newhall to sell additional entitlements in October equal in value to the entitlements which the firm had improperly been required to purchase in July.

Readygas Propane Service, Inc.; Eldon, Mo.; FEA-0831; Propane

Readygas Propane Service, Inc. (Readygas) appealed from a Decision and Order which the FEA had issued on April 2, 1976. In that determination, Readygas had been granted an exception from the provisions of 10 CFR 211.9 on the grounds that adherence to its base period supplier/purchaser relationship with Union Oil Company of California (Union) resulted in a serious hardship to the firm. As a result of the approval of the exception relief, Readygas had been assigned a new supplier who was directed to furnish it with 26.26 percent of its base period use of propane for the months of April, May and June 1976. Readygas Propane Service, Inc., 3 FEA Par. 83,149 (April 2, 1976). In a Supplemental Order issued on June 30, 1976, the FEA extended through the months of July, August, and September 1976 the relief which it had previously granted. Readygas Propane Service, Inc., 3 FEA Par. 83,149 (June 30, 1976) (Supplemental Order). The Readygas Appeal, if granted, would result in the complete termination of Readygas' supplier/purchaser relationship with Union, and the permanent assignment of a lower-priced supplier for propane. In considering the Appeal, the FEA determined that financial and operating data which Readygas furnished indicated that the firm is continuing to incur substantial operating losses as a result of the higher price it must pay for propane. In order to alleviate the consequent serious hardship to Ready-

gas, additional exception relief was granted which permits the firm to receive 46.57 percent of its base period use from a lower-priced supplier for the months of October, November and December 1976.

REQUESTS FOR EXCEPTION

Amoco Oil Co.; Chicago, Ill.; FPI-0103; Petrochemicals

Amoco Oil Company (Amoco) filed an Application for Exception from the provisions of 10 CFR 213.11 which, if approved, would grant the firm the authority to import crude oil and unfinished oils during the current allocation year on the license fee-free basis which the firm states should have been approved pursuant to 213.11 for the allocation year ending on April 30, 1976. In considering Amoco's exception request, the FEA determined that the firm had filed an application for fee-exempt authority under § 213.11 for the 1975-76 allocation year in a timely manner. However, because the FEA Office of Oil Imports was undergoing changes in key personnel and was experiencing an unusually burdensome workload, that part of Amoco's application relating to its Chocolate Bayou Olefins Plant was not acted upon before the end of the 1975-76 allocation year. Under these circumstances, the FEA found that an undue administrative delay had occurred which frustrated the intent of § 213.11 and Proclamation No. 3279, as amended. On the basis of these findings, the FEA concluded that Amoco was experiencing an exceptional hardship and granted the firm's exception request. The Director of Oil Imports was directed to award the firm an additional fee-free allocation during the current allocation period.

Atlantic Richfield Co.; Dallas, Tex.; FEE-2906; (Covington), FEE-2907; (Crane), FEE-2908; (Dayton), FEE-2909; (Drumright), FEE-2910; (East Village Hill), FEE-2911; (Eldorado), FEE-2912; (Hull), FEE-2913; (Longview), FEE-2914; (Midland), FEE-2915; (Nueces River), FEE-2916; (Ojai Timber), FEE-2917; (Riverton Dome), FEE-2918 (Seminole), FEE-2919; (Silasbee), FEE-2920; (South Hampton), FEE-2921; (Stevens-Calidon), FEE-2922; FEE-2923; (Price), Natural Liquid Products

Atlantic Richfield Company (Arco) filed 18 Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit Arco to increase the amount of non-product costs which it includes in the prices of natural gas liquid products produced at certain of its natural gas processing plants. In 17 of those applications, Arco requested that the exception relief previously granted to the firm on July 13, 1976 be extended for an additional period of time. Atlantic Richfield Co., 4 FEA Par. 83,003 (July 13, 1976). Arco also sought prospective relief for its Nueces River plant. In considering Arco's requests, the FEA determined that Arco had experienced non-product cost increases during the second quarter of 1976 at the 18 gas plants which substantially exceeded the \$.005 per gallon passthrough permitted under the provisions of § 212.165. Based on the criteria set forth in *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975) and other previous Decisions, the FEA determined that exception for each of the 18 gas plants was warranted. The FEA noted that as a general rule it would approve extensions of exception relief for natural gas processors for a period of six months based upon a finding that it is likely that the non-product cost increases will continue at current levels. The FEA granted relief with respect to 12 of the Arco gas plants for the

period October 1, 1976 through March 31, 1977. With respect to the remaining six gas plants, the FEA found that the adjusted non-product cost increases which Arco experienced at those plants were unusually high and therefore determined that relief should be granted only for the period October 1, 1976 through December 31, 1976 in order to permit a further evaluation of the cost increases incurred at those plants.

Beacon Gasoline Co.; Tulsa, Okla.; FEE-2902; Natural Gas Liquid Products

Beacon Gasoline Company (Beacon) filed an Application for Exception in which it requested that the exception relief which was granted to the firm on June 7, 1976 be extended for an additional period of time. *Beacon Gasoline Co.*, 3 FEA Par. 83,208 (June 7, 1976). In the June 7 Decision, the FEA determined that Beacon would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted to the firm which permits it to increase its prices for natural gas liquid products above the maximum permissible levels determined in accordance with the provisions of Subpart K by \$.104568 per gallon through September 30, 1976. In considering Beacon's request for an extension of exception relief, the FEA determined that the firm continued to incur non-product cost increases in the second quarter of its 1976 fiscal year which substantially exceed the \$.005 per gallon passthrough permitted under the provisions of § 212.165 and that based upon the criteria set forth in *Sun Oil Co.*, 3 FEA Par. 83,129 (March 12, 1976); *Shell Oil Co.*, 3 FEA Par. 83,049 (December 15, 1975); and *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), continued exception relief is warranted. The FEA therefore granted the exception request and permitted Beacon to increase its maximum permissible selling prices for natural gas liquid products produced at its Minden plant by an amount not to exceed \$.1174 per gallon for the period October 1, 1976 through December 31, 1976.

Class Exception-Retroactive Application of the Separate Inventories Amendment; FEE-3109; Petroleum Products

On May 28, 1976, the FEA published a Notice in the FEDERAL REGISTER which related to its consideration of class exception relief for certain categories of resellers of petroleum products. 41 FR 21935 (May 28, 1976). The exception, if granted, would permit resellers and retailers to comply with the price rules specified in 10 CFR, Part 212, Subpart F, for the period August 19, 1973 through April 30, 1976, as if the "separate inventories" amendment which the FEA adopted effective May 1, 1976 (41 FR 19110 (May 10, 1976)) had been in effect during the prior period. In considering the proposal for class exception relief, the FEA reached the following conclusions:

(1) The evidence in the record was inconclusive with respect to the size, nature, characteristics or number of resellers adversely affected by the firmwide inventory rule which was in effect prior to May 1, 1976. The record did not establish the extent to which firms were sufficiently large to have used separate inventory pricing procedures, the extent to which they actually did so, the amount of revenues involved in the exception request, or the necessity for relief on a class rather than on an individual basis. The record also failed to indicate that there were sufficiently common issues of fact or law pertaining to the class as to justify relief on a class basis.

(2) Although the participants in the proceeding contended that during the relevant

period they in good faith construed the applicable regulations as permitting the calculation of increased product costs on the basis of separate inventories, the regulatory requirements were not so ambiguous as to warrant class exception relief. A reading of § 212.92, which refers to the "average unit cost of a product in inventory", within the context of the FEA regulatory program would have led to the conclusion that a single inventory calculation was required. Furthermore, the participants failed to protect their interests by requesting formal interpretations of the regulations or by pursuing the administrative remedies available to them.

(3) The averaging of increased costs throughout the country which would have resulted from compliance with the firmwide inventory requirement would mitigate any disproportionate price impacts and would not, as the participants in the proceeding contended, have caused serious public injury.

(4) The evidence presented as to the propriety of granting relief to two specific subclasses of the reseller industry, viz., crude oil resellers and firms which engage in cargo load resales, was insufficient to warrant approval of class exception relief to either of these groups. The FEA indicated however that it was prepared to consider any further exception requests submitted by these segments of the industry, whether on a class or an individual basis.

Accordingly, the FEA determined that the participants in the proceeding had not established that the entire class of resellers of petroleum products was entitled to retroactive exception relief on the basis of the relevant administrative and judicial precedents. Class exception relief was therefore denied.

Coline Gasoline Corp.; Ventura, Calif.; FEE-2904; Natural Gas Liquid Products

Coline Gasoline Corporation (Coline) filed an Application for Exception in which it requested that the exception relief which had been granted to the firm on July 19, 1976 be extended for an additional period of time. *Coline Gasoline Corp.*, 4 FEA Par. 83,012 (July 19, 1976). In the July 19 Decision, the FEA determined that Coline would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted to the firm which permits it to increase its prices for natural gas liquid products above the maximum permissible levels determined in accordance with the provisions of Subpart K by \$.0225 per gallon through September 30, 1976. In considering Coline's request for an extension of exception relief, the FEA determined that the firm continued to incur non-product cost increases in the second quarter of its 1976 fiscal year which substantially exceed the \$.005 per gallon passthrough permitted under the provisions of § 212.165 and that based upon the criteria set forth in *Sun Oil Co.*, 3 FEA Par. 83,129 (March 12, 1976); *Shell Oil Co.*, 3 FEA Par. 83,049 (December 15, 1975); and *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), continued exception relief is warranted. The FEA noted that, as a general rule, extensions of exception relief for natural gas processors will be approved for a period of six months based upon a finding that it is likely that the non-product cost increases will continue at current levels. Since that finding was made with respect to Coline, the FEA granted the exception request and permitted the firm to increase its maximum permissible selling prices for natural gas liquid products produced at its Rincon plant by an amount not to exceed \$.0214 per gallon for the period October 1, 1976 through March 31, 1977.

Diamond Shamrock Corp., Amarillo, Tex.; FEE-2894; Natural Gas Liquid Products

Diamond Shamrock Corporation (Shamrock) filed an Application for Exception in which it requested that the exception relief which had been granted to the firm on June 7, 1976 be extended for an additional period of time. *Diamond Shamrock Corp.*, 3 FEA Par. 83,212 (June 7, 1976). In the June 7 Decision, the FEA determined that Shamrock would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted to the firm which permits it to increase its prices for natural gas liquid products above the maximum permissible levels determined in accordance with the provisions of Subpart K by \$.0107 per gallon through September 30, 1976. In considering Shamrock's request for an extension of exception relief, the FEA determined that the firm continued to incur non-product cost increases in the second quarter of its 1976 fiscal year which substantially exceed the \$.005 per gallon passthrough permitted under the provisions of § 212.165 and that based upon the criteria set forth in *Sun Oil Co.*, 3 FEA Par. 83,129 (March 12, 1976); *Shell Oil Co.*, 3 FEA Par. 83,049 (December 15, 1975); and *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), continued exception relief is warranted. The FEA noted that, as a general rule, extensions of exception relief for natural gas processors will be approved for a period of six months based upon a finding that it is likely that the non-product cost increases will continue at current levels. Since that finding was made with respect to Shamrock, the FEA granted the exception request and permitted the firm to increase its maximum permissible selling prices for natural gas liquid products produced at its McKee plant by an amount not to exceed \$.0130 per gallon for the period October 1, 1976 through March 31, 1977.

Edgington Oil Co., New Edgington Corp., Long Beach, Calif.; FEE-2789; Crude Oil Refined Products

The Edgington Oil Company (Edgington) and the New Edgington Corporation (New Edgington) filed a joint submission with the Federal Energy Administration requesting various types of administrative relief in connection with a proposed acquisition by New Edgington, a new corporation, of two refineries and all other assets owned by Edgington. Based on the material submitted by Edgington and New Edgington, the FEA granted several types of relief which it determined were necessary in order to facilitate the proposed acquisition. In particular, the FEA determined that: (i) New Edgington should be permitted to calculate its maximum allowable selling prices for covered products by reference to Edgington's May 15, 1973 prices and Edgington's May 1973 product and nonproduct costs; (ii) New Edgington should be deemed to have acquired all product and non-product costs incurred by Edgington during its last month of operation and all product and non-product costs which have been banked by Edgington; (iii) New Edgington should be assigned to supply those purchasers for whom Edgington was the base period supplier; (iv) Edgington should be permitted to sell its product inventories directly to New Edgington without including those products in its allocable supply as would otherwise be required under 10 CFR 211.10(b); and (v) the exception relief previously granted by the FEA to Edgington which relieved that firm of certain of its entitlements purchase obligations under the Entitlements Program should be extended to New Edgington. See *Edgington Oil*

Co., 3 FEA Par. 83,240 (June 21, 1976). The FEA also determined that, since the foregoing types of relief could be granted, the approval of additional relief of the type granted in *The Oil Shale Corp.; Phillips Petroleum Co.*, 3 FEA Par. 83,139 (March 23, 1976) permitting New Edgington to treat its inventory purchase costs as product and non-product costs would result in a double recovery of those costs and would therefore be inappropriate.

General American Oil Co. of Texas; Dallas, Tex.; FEE-2496; Crude Oil

The General American Oil Company of Texas (General American) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit General American to sell at upper tier ceiling prices all of the crude oil produced and sold from the "R-1" V.U. "A" Unit, Agnes Nicko Well No. 1 (R-1 well) and the "S-1" V.U. "A" Unit, La Fleur Well No. 1 (S-1 well) in Evangeline Parish, Louisiana. In considering the exception request, the FEA determined that during the first six months of 1976, General American had realized a net profit of \$0.49 per barrel from the R-1 well and consequently had a reasonable economic incentive to continue operating the well even in the absence of exception relief. The FEA therefore denied exception relief for the R-1 well. With respect to the S-1 well, the FEA determined that as a result of the rapidly declining rate of production since January of 1976, the operating cost per barrel of crude oil produced for the working interests has increased significantly since the second quarter of 1973 and now exceeds the lower tier ceiling price which General American is permitted to charge. Consequently, General American lacks an economic incentive to continue operating the well and, if General American ceases operations, approximately 6,000 barrels of crude oil otherwise recoverable from the well will be lost. On the basis of precedents involving similar factual situations and in view of the national policy objective of encouraging the production of domestic crude oil, the FEA concluded that the application of the lower tier ceiling price rule to General American with respect to the S-1 well resulted in a gross inequity and that exception relief should be granted in this case. An analysis of the financial and operating data which General American submitted led to the further conclusion that the firm should be permitted to sell at upper tier ceiling prices 62.092 percent of the crude oil which it produces for the benefit of the working interest owners of the S-1 well.

General Crude Oil Company (General Crude) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil produced from the Banning Lease. General Crude based its request for exception on its contention that unless exception relief were granted it would have no economic incentive to undertake an accelerated in-situ thermal project at the Banning Lease. In considering General Crude's Application, the FEA determined that a substantial additional amount of crude oil could be recovered from the Banning Lease over an eight year period if the investment necessary to undertake an accelerated in-situ thermal project were made. The FEA also determined that since General Crude would be required to charge lower tier ceiling prices for the incremental crude oil produced from the project, the revenues generated as a result of the investment would provide a negative rate of return

on the capital required to undertake the project. On the basis of previous precedents, the FEA concluded that exception relief should be granted to General Crude to provide the firm sufficient economic incentive to undertake the project while at the same time avoiding the possibility that windfall profits would be obtained as a result of the exception relief. The FEA concluded that in this particular case these objectives would be achieved if General Crude were permitted to sell at upper tier ceiling prices a portion of the incremental crude oil produced for the benefit of the working interest owners as a result of the project. Exception relief was therefore granted to General Crude for the years 1977, 1978, and 1979 permitting the firm to sell certain volumes of the additional crude oil produced as a result of the investment at upper tier ceiling prices.

H. L. Mills Petroleum Products; Hagerstown, Md.; FEE-0086; Motor Gasoline

On July 1, 1976, the Federal Energy Administration granted an exception to H. L. Mills Petroleum Products (Mills) on the grounds that the application to it of the provisions of 10 CFR, Part 211, which require that the base period supplier/purchaser relationship be maintained results in a serious hardship to the firm. H. L. Mills Petroleum Products, 3 FEA Par. 83,255 (July 1, 1976). The July 1 Order directed the Regional Administrator for the FEA, Region III, to assign to Mills for the months of July, August, and September 1976, a supplier or suppliers whose wholesale price for motor gasoline was within the range of prices paid for such product by major marketers in the area in which Mills markets its petroleum products. The Order also specified that upon receiving a written request from Mills the Regional Administrator of FEA, Region III, shall make a determination for any month subsequent to September, 1976 as to whether Mills would continue to experience a serious hardship unless further exception relief were approved. Mills requested an extension of exception relief in accordance with the terms of that Order. Based upon data which Mills submitted to the Regional Administrator and the recommendation of the Regional Administrator, the FEA determined that the price which the Petroleum Marketing Corporation, Mills' base period supplier, would presently charge Mills for motor gasoline was within the range of prices paid for motor gasoline by other unbranded marketers in the Mills market area. Therefore, any financial difficulties which Mills may continue to experience would not result directly from the application of FEA regulatory requirements. Accordingly, the Mills request for an extension of exception relief was denied.

Husky Oil Co.; Denver, Colo.; FEE-2485; Motor Gasoline

Husky Oil Company (Husky) filed an Application for Exception from the provisions of 10 CFR 211.10 and 211.102 which, if granted, would result in the issuance of an Order by the FEA increasing by more than 350 percent the base period use of motor gasoline at two of Husky's retail outlets located in Spokane County, Washington. In its exception application, Husky indicated that as a result of its conversion of the two outlets from full-service to self-service operations, sales at both outlets had increased significantly above base period use. In considering the exception request, the FEA observed that, although Husky may be able to sell volumes of motor gasoline at the two outlets which exceed their base period use, the firm did not submit any evidence which demonstrates that the total demand for gaso-

line in the market area served by the outlets has increased significantly since the base period or is substantially greater than the current supply capacity of existing retail stations in the area. Husky also failed to demonstrate that the denial of its request would significantly frustrate any of the policy objectives specified in the Emergency Petroleum Allocation Act of 1973. Moreover, although Husky's refineries are apparently unable to supply surplus motor gasoline to the outlets, the firm did not make a showing that it is unable to obtain surplus product from other suppliers. Husky therefore failed to satisfy the criteria set forth in prior Decisions for the approval of an increase in base period use on gross inequity grounds. The FEA also found that Husky did not present any evidence to demonstrate that the denial of its request would substantially impair its overall financial position or any aspect of its operations and therefore failed to establish that it is experiencing a serious hardship. The exception request was accordingly denied.

J-W Operating Co., Dallas, Tex.; FEE-2575; Crude Oil

J-W Operating Company (J-W) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit J-W to sell the crude oil produced from the Eota F-1 Well in Rapides Parish, Louisiana at prices in excess of the lower tier ceiling price. In its exception application, J-W claimed that the application to the firm of the definition of the term "stripper well property" contained in Subpart D results in a gross inequity because flooding conditions over which the firm had no control prevented the well from qualifying as a stripper well property under the regulatory provisions. In considering the J-W contention, the FEA noted that Ruling 1975-12 provides a formula to be used to determine average daily production when a well is operated for only part of the year. The application of that formula to the Eota F-1 Well indicates that the production from the well would exceed ten barrels per day under normal operating conditions, and the property therefore does not qualify as a stripper well property. However, the FEA also determined that (i) the cost of producing crude oil from the Eota F-1 Well has increased significantly since 1973 and now exceeds the lower tier ceiling price which J-W is permitted to charge; (ii) consequently, J-W currently lacks an economic incentive to continue to produce crude oil from the Eota F-1 Well; and (iii) if J-W abandons the property, a considerable amount of otherwise recoverable crude oil would be lost. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule to the working interest owners of the Eota F-1 Well resulted in a gross inequity and that exception relief should therefore be approved. An analysis of the specific financial and operating data which J-W submitted led to the further conclusion that J-W should be permitted to sell at upper tier ceiling prices 53.49 percent of the crude oil produced and sold for the benefit of the working interest owners.

Monoco Oil Co., Inc.; Pittsford, N.Y.; FEE-2639; Residual Fuel Oil

Monoco Oil Company, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) which, if granted, would permit the firm to earn entitlements with respect to its purchases of imported residual fuel oil. Monoco also requested that relief be approved retroactive to January 1976. In considering the exception application, the FEA found that

several of Monoco's principal competitors are domestic refiners which enjoy a cost advantage over Monoco because of their participation in the Entitlements Program. As a result of the operation of the Entitlements Program, the effective cost of the crude oil which domestic refiners use as feedstock in their refineries has been reduced below world market levels and as a consequence the residual fuel oil which they sell is produced from lower-priced feedstock than the imported residual fuel oil which Monoco sells. Since Monoco is dependent on residual fuel oil produced from expensive foreign crude oil and since the firm operates outside of the Bureau of Mines East Coast Petroleum Refining District and does not receive any benefits under the Entitlements Program with respect to that residual fuel oil, Monoco has not been able to effectively compete with either those firms that do receive direct benefits under the Entitlements Program or those firms that sell residual fuel oil produced from lower-cost domestic crude oil. The FEA found that a disparity existed between Monoco's cost for residual fuel oil and the prices at which its competitors were able to sell the product and, as a result, Monoco's competitive posture had deteriorated significantly. The data which the firm submitted as to its operating results during the first 11 months of its fiscal year ending June 30, 1976 indicated that Monoco was operating at a level well below its historical performance. Additionally, Monoco projected that it would experience a substantial decline in sales volume and would also incur a significant net loss during the period July through December 1976. Based on the material submitted, the FEA concluded that Monoco's ability to function as a viable competitor had already been seriously impaired and the firm might ultimately be compelled to terminate its activities as an independent distributor of residual fuel oil if the situation which it was facing continued to exist. The FEA observed that the competitive environment in Monoco's marketing area would certainly be adversely affected if the firm no longer functioned as a strong competitor and also observed that in both the Emergency Petroleum Allocation Act of 1973 and the Federal Energy Administration Act of 1974 the Congress had expressed concern as to the nature and extent of competition in the petroleum industry. In view of the showing made by Monoco that it is incurring serious financial and operating difficulties which may jeopardize its continued existence, the FEA determined that exception relief should be granted which would mitigate the adverse effect to the firm which accrues as a result of the Entitlements Program. The further finding was made that Monoco was incurring the same competitive disadvantage as a consequence of the Entitlements Program which East Coast marketers of imported residual fuel oil were experiencing prior to April 1, 1976 when revisions were made to the FEA Regulations permitting those marketers to earn entitlements on their product imports. On the basis of those findings, the FEA held that Monoco should be granted prospective relief similar to that which was extended to those marketers in § 211.67(a) (3). Accordingly, the FEA approved relief which permits Monoco to earn entitlements pursuant to the provisions of § 211.67(a) (3) subject to certain limitations. With respect to Monoco's request for retroactive relief, the FEA found that the firm had failed to show that its operation would be placed in imminent jeopardy unless relief were granted on a retroactive basis and accordingly denied the request.

National Helium Corp.; Liberal, Kans., FEE-2903; Natural Gas Liquid Products

National Helium Corporation (National Helium) filed an Application for Exception in which it requested that the exception relief which had been granted to the firm on July 20, 1976 be extended for an additional period time. *National Helium Corp.*, 4 FEA Par. 83,019 (July 20, 1976). In the July 20 Decision, the FEA determined that National Helium would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted to the firm which permits it to increase its prices for natural gas liquid products above the maximum permissible levels determined in accordance with the provisions of Subpart K by \$.0445 per gallon through September 30, 1976. In considering National Helium's request for an extension of exception relief, the FEA determined that the firm continued to incur non-product cost increases in the second quarter of its 1976 fiscal year which substantially exceed the \$.005 per gallon pass-through permitted under the provisions of Section 212.165 and that based upon the criteria set forth in *Sun Oil Co.*, 3 FEA Par. 83,129 (March 12, 1976); *Shell Oil Co.*, 3 FEA Par. 83,049 (December 15, 1975); and *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), continued exception relief is warranted. The FEA noted that, as a general rule, extensions of exception relief for natural gas processors will be approved for a period of six months based upon a finding that it is likely that the non-product cost increases will continue at current levels. Since that finding was made with respect to National Helium, the FEA granted the exception request and permitted National Helium to increase its maximum permissible selling prices for natural gas liquid products produced at its Liberal, Kansas plant by an amount not to exceed \$.0196 per gallon for the period October 1, 1976 through March 31, 1977.

Pacific Northern Oil Corp.; Seattle Washington; FPI-0097; Residual Fuel Oil, Motor Gasoline, Diesel Fuel

Pacific Northern Oil Corporation (PANOCO) filed an Application for Exception from the provisions of 10 CFR 213.35(c) which, if granted, would permit it to import on a license fee-exempt basis during the current allocation period, (i) 800,000 barrels of residual fuel oil into PAD Districts I-V, and (ii) 220,000 barrels of motor gasoline and 200,000 barrels of diesel fuel into PAD District V. In considering PANOCO's exception request, the FEA determined that the firm is able to obtain supplies of domestically produced diesel fuel at competitive price levels which are sufficient to meet the needs of its customers. PANOCO's exception request was therefore denied with respect to diesel fuel. However, PANOCO made a convincing showing that it was unable to obtain adequate supplies of residual fuel oil or motor gasoline on the domestic market at competitive price levels. The FEA also found that profitability data and projections submitted by PANOCO supported the firm's contention that its financial viability would be threatened in the absence of exception relief permitting it to import motor gasoline and residual fuel oil on a fee-exempt basis. In addition, PANOCO submitted market surveys which made a convincing showing that it was unable to increase its prices for motor gasoline and residual fuel oil to reflect the payment of license fees. In view of these findings, the FEA concluded that PANOCO had demonstrated that it was experiencing an exceptional hard-

ship within the meaning of (§ 205.50, and granted the firm's request for license fee-exempt authority with respect to 800,000 barrels of residual fuel oil and 62,185 barrels of motor gasoline. PANOCO's further request for retroactive refunds of license fees which it had already paid during the current allocation period was denied since the firm did not demonstrate that it would experience severe and irreparable injury in the absence of this type of relief.

Signal Petroleum, New Orleans, La.; FEE-2901; Natural Gas Liquid Products

Signal Petroleum (Signal) filed an Application for Exception in which it requested that the exception relief which was granted to the firm on July 19, 1976 be extended for an additional period of time. *Signal Petroleum*, 4 FEA Par. 83,016 (July 19, 1976). In the July 19 Decision, the FEA determined that Signal would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted to the firm which permits it to increase its prices for natural gas liquid products above the maximum permissible levels determined in accordance with the provisions of Subpart K by \$.0086 per gallon through September 30, 1976. In considering Signal's request for an extension of exception relief, the FEA determined that the firm continued to incur non-product cost increases in the second quarter of its 1976 fiscal year which substantially exceed the \$.005 per gallon pass-through permitted under the provisions of § 212.165 and that based upon the criteria set forth in *Sun Oil Co.*, 3 FEA Par. 83,129 (March 12, 1976); *Shell Oil Co.*, 3 FEA Par. 83,049 (December 15, 1975); and *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), continued exception relief is warranted. The FEA noted that, as a general rule, extensions of exception relief for natural gas processors will be approved for a period of six months based upon a finding that it is likely that the non-product cost increases will continue at current levels. Since that finding was made with respect to Signal, the FEA granted the exception request and permitted Signal to increase its maximum permissible selling prices for natural gas liquid products produced at its Lake Washington plant by an amount not to exceed \$.0117 per gallon for the period October 1, 1976 through March 31, 1977.

Sun Oil Co.; Philadelphia, Pa.; FEE-2361; Crude Oil

Sun Oil Company (Sun) filed an Application for Exception from the provisions of 10 CFR 211.67 which, if granted, would permit the firm to certify a portion of the crude oil which it produces from the Sunoco Felda Fields in Hendry County, Florida as new crude oil for purposes of the Entitlements Program in order to reduce the effective cost of the crude oil to refiners. In considering the exception application, the FEA found that Sun was experiencing difficulties in marketing Felda crude oil because the total costs to a refiner of purchasing the Felda crude oil at the ceiling price levels exceeded the cost of purchasing foreign crude oil of a similar quality. However, the FEA also determined that contrary to Sun's assertions, substantial evidence had not been provided which would indicate that the marketing problems which it encountered were a direct result of the effect of the Entitlements Program on purchasers of Felda crude oil. Despite the FEA's request that it do so, Sun failed to provide any data which would establish that the firm was not able to reduce

the price of its Felda crude oil below the applicable ceiling price levels in response to prevailing market conditions and still realize an adequate profit to justify continued crude oil production operations. Since Sun failed to show that it was experiencing a gross inequity as a result of the application to it of the provisions of the Entitlements Program, the firm's Application for Exception was denied.

Superior Oil Co., Rio Bravo, Calif.; FEE-2924; Natural Gas Liquid Products

The Superior Oil Company (Superior) filed an Application for Exception in which it requested that the exception relief which was granted to the firm on June 7, 1976 be extended for an additional period of time. *Superior Oil Co.*, 3 FEA Par. 83,218 (June 7, 1976). In the June 7 Decision, the FEA determined that Superior would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted to the firm which permits it to increase its prices for natural gas liquid products above the maximum permissible levels determined in accordance with the provisions of Subpart K by \$.051001 per gallon through September 30, 1976. In considering Superior's request for an extension of exception relief, the FEA determined that the firm continued to incur non-product cost increases in the second quarter of its 1976 fiscal year which substantially exceed the \$.005 per gallon pass-through permitted under the provisions of § 212.165 and that based upon the criteria set forth in *Sun Oil Co.*, 3 FEA Par. 83,129 (March 12, 1976); *Shell Oil Co.*, 3 FEA Par. 83,049 (December 15, 1975); and *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), continued exception relief is warranted. The FEA noted that, as a general rule, extensions of exception relief for natural gas processors will be approved for a period of six months based upon a finding that it is likely that the nonproduct cost increases will continue at current levels. Since that finding was made with respect to Superior, the FEA granted the exception request and permitted Superior to increase its maximum permissible selling prices for natural gas liquid products produced at its Rio Bravo plant by an amount not to exceed \$.0323 per gallon for the period October 1, 1976 through March 31, 1977.

Teche Production Co., Inc.; Lafayette, FEE-2778; Crude Oil

Teche Production Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which it requested that the exception relief granted to Teche on April 2, 1976 be extended for an additional period of time. The relief previously approved permitted Teche to sell a portion of the crude oil produced and sold for the benefit of the working interest owners from the Johnson Heirs #2 Well at prices in excess of the lower tier ceiling price. *Teche Production Company, Inc.*, 3 FEA Par. 83,154 (April 2, 1976). In considering Teche's Application for an extension of exception relief, the FEA determined that recent and projected operating data for the Johnson well demonstrated that Teche is no longer experiencing the operating losses upon which the previous exception relief was based. Consequently, the FEA held that the firm's request for an extension of exception relief should be denied.

Upham Oil and Gas Co.; Chico, Tex.; FEE-2759; Natural Gas Liquid Products

Upham Oil and Gas Company (Upham) filed an Application for Exception in which

it requested that the exception relief which was granted to the firm on May 12, 1976 be extended for an additional period of time. *Upham Oil and Gas Co.*, 3 FEA Par. 83,189 (May 12, 1976). In the May 12 Decision, the FEA determined that Upham would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted to the firm which permits it to increase its prices for natural gas liquid products above the maximum permissible levels determined in accordance with the provisions of Subpart K by \$.0194 per gallon through September 30, 1976. In considering Upham's request for an extension of exception relief, the FEA determined that the firm continued to incur nonproduct cost increases in the second quarter of its 1976 fiscal year which substantially exceed the \$.005 per gallon pass-through permitted under the provisions of § 212.165 and that based upon the criteria set forth in *Sun Oil Co.*, 3 FEA Par. 83,129 (March 12, 1976); *Shell Oil Co.*, 3 FEA Par. 83,049 (December 15, 1975); and *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), continued exception relief is warranted. The FEA noted that, as a general rule, extensions of exception relief for natural gas processors will be approved for a period of six months based upon a finding that it is likely that the non-product cost increases will continue at current levels. Since that finding was made with respect to Upham, the FEA granted the exception request and permitted Upham to increase its maximum permissible selling prices for natural gas liquid products produced at its Chico, Texas plant by an amount not to exceed \$.0307 per gallon for the period October 1, 1976 through March 31, 1977.

Whaleco Fuel Corp.; Brooklyn, N.Y.; FEE-2482; Residual Fuel Oil

Whaleco Fuel Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 which, if granted, would permit it to earn entitlements for residual fuel oil which it purchased from the Asiatic Petroleum Corporation during the months of February and March 1976 even though Whaleco was not the "importer of record" of the residual fuel oil. In considering the exception request, the FEA found that the Entitlements Program as it was administered in February and March 1976 was not the cause of any financial or operating difficulties which Whaleco may be experiencing. The FEA observed that Whaleco itself had stated that it was incurring financial difficulties prior to the implementation of the Entitlements Program and had also stated that its operating posture had not been adversely affected in a significant manner by the Entitlements Program. Since any financial problems which Whaleco may be experiencing are not attributable to the FEA Regulations, the FEA found that exception relief from the Entitlements Program is not appropriate on the grounds of serious hardship. The FEA also rejected Whaleco's contention that exception relief should be granted since the firm would have imported residual fuel oil under its own name during February and March if it had known that the FEA would amend its Regulations on April 1 to permit importers of residual fuel oil to earn entitlements beginning with the month of February. The FEA noted that the amendments which were issued on April 1 had been proposed in early February and Whaleco had the same notice of the proposed amendments as any other importer of residual fuel oil. The FEA determined that Whaleco's failure to protect its own interests does not provide a basis for the

approval of exception relief. Accordingly, Whaleco's exception application was denied.

Whaleco Fuel Corp.; Brooklyn, N.Y.; FPI-0096; Residual Fuel Oil, No. 2 Fuel Oil

Whaleco Fuel Corporation filed an Application for Exception from the provisions of 10 CFR 213.35(c) which, if granted, would result in the issuance of Orders by the FEA authorizing the firm to import 1,500,000 barrels of residual fuel oil and 750,000 barrels of No. 2 fuel oil into PAD District I on a fee-exempt basis during the current allocation period. After considering Whaleco's request in view of the Guidelines enumerated in Subpart D of 10 CFR, Part 205, the FEA found that the payment of the license fees with respect to residual fuel oil imports would place the firm at a significant competitive disadvantage in the New York City metropolitan residual fuel oil market. The FEA also observed that Whaleco has unsuccessfully attempted to secure domestic supplies of residual fuel oil and will consequently have to continue relying primarily on imported residual fuel oil to supply its customers' requirements. Based on these considerations, the FEA determined that exception relief should be granted with respect to Whaleco's imports of residual fuel oil. With respect to Whaleco's request to import No. 2 fuel oil on a fee-free basis, the FEA found that the firm failed to adequately demonstrate that it was experiencing difficulty in obtaining sufficient supplies of competitively priced domestic No. 2 fuel oil to meet its customers' requirements. Moreover, Whaleco submitted no financial data to indicate that the payment of license fees for No. 2 fuel oil would prevent it from importing that product. Accordingly, the FEA denied the firm's request to import No. 2 fuel oil on a fee-free basis.

REQUEST FOR MODIFICATION OR RESCISSION

Service Gas Co., Inc.; Wytheville, Va.; FMR-0058; Motor Gasoline

Service Gas Company, Inc. (Service) filed an Application for Modification of a Decision and Order which FEA Region III had issued on March 24, 1976 denying the firm's Application for Exception. The exception request, if granted, would have resulted in the issuance of an Order increasing the base period use of motor gasoline which six retail sales outlets supplied by Service are entitled to receive. In its exception application, Service contended that there had been a significant increase in the demand for motor gasoline in the Wytheville, Virginia area due to community growth and the opening of a new interstate highway. In its Application for Modification, Service contended that FEA Region III improperly failed to consider the precedent established in *Climax Molybdenum Co.*, 2 FEA Par. 83,157 (May 20, 1975). In considering Service's Application for Modification, the FEA concluded that even though a gross disparity exists between the quantity of motor gasoline which the six outlets are actually using and their aggregate adjusted base period volume, the firm failed to satisfy the remaining criteria for the approval of exception relief on the grounds of gross inequity specified in the *Climax* Decision. The FEA found that Service had failed to demonstrate that the increased demand for motor gasoline was not satisfied by the numerous other retail outlets in the area or that any end-users in the area were compelled to drive unnecessary distances to obtain motor gasoline. The FEA also determined that Service had not shown that any of the objectives of the Emergency Petroleum Allocation Act of 1973 would be frustrated in the absence of exception relief. The firm's Application for Modification was therefore denied.

REQUESTS FOR SPECIAL REDRESS

Melton Auto Service; Petersburg, Va.; FEE-2396; Motor Gasoline

Melton Auto Service (Melton) filed a Petition for Special Redress Relief which, if granted, would result in the rescission of an Order issued by FEA Region III which established Melton's annual base period use of motor gasoline as 314,430 gallons. In its Petition, Melton asserted that in assigning the firm its base period use of gasoline the Regional Office improperly applied the standards set forth in the FEA "Guidelines for Evaluation of Applications for Assignment of Supplier and Base Period Use to New Gasoline Retail Sales Outlets" (the Guidelines). In considering Melton's submission, the FEA found that the Regional Office had reached the unwarranted conclusion that Melton's outlet was similar in nature and size to the nearest conventional major-branded dealers, rather than the high-volume unbranded outlets in Melton's market area. Consequently, the Regional Office had issued an Assignment Order which improperly reduced Melton's annual base period use from the 800,000 gallons which the firm had requested to 314,430 gallons. The FEA concluded that the Regional Office should have determined that Melton was most similar to the unbranded high-volume, low-margin outlets in the area and established the firm's base period use accordingly. The Petition was therefore granted, the Assignment Order issued to Melton was vacated, and the matter was remanded to the Regional Office for issuance of a new Assignment Order establishing a base period use for Melton equivalent to the average adjusted base period volume of the several high-volume outlets currently situated within a two-mile radius of the site of the Melton station.

Westla Oil Co.; Maryland Heights, Mo.; FSG-0023; Motor Gasoline

Westla Oil Company (Westla) filed a Petition for Special Redress Relief which, if granted, would result in the rescission of an Order issued by FEA Region IX which assigned the Fletcher Oil & Refining Company (Fletcher) to supply motor gasoline to a retail outlet which Westla operates in Sacramento, California. In its Petition, Westla asserted that in assigning Fletcher as its supplier the Regional Office improperly applied the standards set forth in 10 CFR 205.35(b) (1) which govern the assignment of suppliers and the designation of a firm's base period use of allocated products. In considering Westla's submission, the FEA observed that the Regional Office had stated that the price which a potential supplier would charge an independent marketer was not a relevant consideration in the assignment process. The FEA noted however that § 205.35(b) (1) specifically provides that the factors which the FEA must consider in the assignment of a supplier include equitable distribution of refined petroleum products at equitable prices among all sectors of the petroleum industry, and preservation of the competitive viability of non-branded independent marketers. The FEA concluded that, although the price which potential suppliers would charge if assigned to supply allocated petroleum products to the purchaser will not invariably determine the appropriate supplier price should be taken into account by the Regional Office in those situations in which an independent marketer demonstrates that the high price from a particular supplier, will have an adverse impact on its competitive viability. On the basis of the showing made by Westla that the assignment of Fletcher to supply gasoline to its Sacramento station has an adverse impact on its competitive viability, the FEA determined that the Westla Petition should be granted. Accordingly, the

matter was remanded to Region IX for the issuance of a new Assignment Order which properly considers the price issue.

REQUEST FOR STAY

Southland Oil Co.; Memphis, Tenn.; FST-0014; Crude Oil

Southland Oil Company (Southland) filed an Application for Temporary Stay of the provisions of 10 CFR 211.67 (the Entitlements Program) which, if granted, would relieve the firm of the requirement that it purchase 90,828 of its total entitlement purchase obligation specified in the Entitlements Notice which the FEA issued in September 1976. 41 FR 42926 (September 28, 1976). In considering Southland's request, the FEA observed that in Decisions and Orders issued on June 18 and September 10, 1976, Southland had been granted exception relief which reduced the firm's entitlement purchase obligation during the month of September 1976 by \$1,467,320. However, as a result of an administrative error by the FEA Office of Regulatory Programs, Southland's obligation was reduced by only \$760,687. The FEA further determined that although Southland filed a request for temporary stay pursuant to § 205.127 of the FEA Procedural Regulations, the material submitted already sufficiently established that a stay should be granted under the criteria set forth in § 205.125. Southland's obligation to purchase 90,828 additional entitlements was therefore stayed pending a determination of an Appeal which the firm intends to file.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

R. O. Bragg; San Francisco, Calif.; FEE-3141
Doss, Inc.; Eupora, Miss.; FEE-3014
R. M. Edwards; Tulsa, Okla.; FEE-2900
Inezco Oil Co.; Houston, Tex.; FES-3104
Rich Oil Co.; Cucamonga, Calif.; FEE-2765

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

L. Bult Service; Thornton, Ill.; FEE-2784
Vinalhaven Fuel & Marine Corp.; Vinalhaven, Maine; FEA-0939

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Franwin Oil & Gas Co.; Long Beach, Calif.; FEE-2762

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Atlantic Richfield Co.; Los Angeles, Calif.; FSG-0029

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in Energy Management; Federal Energy Guidelines, a commercially published loose leaf reporter system.

MICHAEL F. BUTLER,
General Counsel.

NOVEMBER 10, 1976.

[FR Doc. 76-33559 Filed 10-10-76; 1:47 pm]

REPORTING REQUIREMENTS: FOREIGN OIL SUPPLY AGREEMENTS

Request for Comment

The international arrangements governing the lifting and pricing of oil imported into the United States are the result of negotiations, agreements, legislation, and policies of private oil companies and foreign national oil companies and governments. These arrangements, although traditionally and largely a matter of private commercial concern, nevertheless may substantially affect United States energy interests and objectives regarding the supply security as well as the price of imported oil.

The increased control over international oil production and pricing on the part of OPEC governments in the early 1970's, and the oil embargo and subsequent petroleum price increases by the OPEC cartel, have generated increased public concern about the impact on U.S. national energy interests and objectives of the arrangements between private U.S. companies and foreign governments affecting international oil trade. To assess the relationship between private commercial and U.S. national energy interests, the FEA is considering proposing revised reporting requirements for foreign oil supply arrangements.

The Federal Energy Administration (FEA) presently collects detailed price and cost information on foreign crude oil acquisitions in order to control "transfer" prices between domestic oil companies and their foreign affiliates and to meet the United States obligations in the International Energy Agency. For crude oil types imported into the U.S., this data includes price and volumetric information on all arms-length sales by U.S. companies wherever such sales take place. In addition, delivered prices, f.o.b. prices (where applicable) and transportation costs are reported for all cargoes brought into the U.S. Finally, cost information is provided quarterly for all major crude streams. A limited amount of information is also collected by the Securities and Exchange Commission pursuant to public offerings and the requirements of the Securities Act of 1934. In addition, there are informal consultations between U.S. firms and the United States Government with respect to negotiations between the firms and foreign countries. These activities have been supplemented by a major study conducted by FEA examining the relationship of U.S. companies to producing governments.

Although these efforts have produced a considerable body of information, the government does not now regularly collect information, other than the price and cost data, cited above, from oil companies concerning their arrangements with producing governments with respect to crude oil imported into the U.S.

Regular collection of such information regarding significant arrangements could be helpful in several ways. Such information could allow the government to assess more adequately the current and prospective state of the international oil market, could assure that government

decisions with respect to that market were fully informed, and could permit the government to foresee cumulative consequences resulting from individual decisions which might not otherwise be noted.

To this end, FEA is considering imposing additional reporting requirements with respect to arrangements which U.S. oil companies and their subsidiaries have with producing governments and their oil companies. Such reporting requirements, if adopted, would be imposed pursuant to FEA's authority under section 13 of the Federal Energy Administration Act of 1974 and would extend to all major arrangements directly governing or related to crude oil access.

To minimize reporting burdens, not all arrangements need to be reported. Rather, reporting requirements could be limited to those arrangements covering significant quantities of crude or representing significant developments. Since many important lifting arrangements are no longer subject to formal contracts or concessionary agreements, any reporting requirement would have to include, where practicable, legislation, policies and declarations by producing countries which directly affect or establish the terms and conditions under which their crude oil may be lifted and exported.

To measure significance, FEA would have to develop some standards for reporting. Among the factors of special interest which have been identified so far are:

- Producing country involved.
- Volume of oil covered by the arrangement.
- Length of contract period, timing, and nature of options to reopen agreements.
- Prices and any discounts.
- Types of services rendered and remuneration.

Lifting restrictions, if any. Since cumulative volumetric restrictions on output may have substantial importance to U.S. planning and policy, it may be important to report all volumetric limitations even though other aspects of a particular agreement or development are not significant.

Novelty of arrangements. In this respect it is especially important to identify new types of arrangements which may become patterns even though the particular arrangement only affects a small volume of oil.

Reporting could be implemented in two ways. Under the first system, companies would provide notice to FEA of particular arrangements with a summary in a standardized format of the major features, e.g., price, volume, service fees, credit and payment terms. FEA would then be provided access as required to the actual agreements or understandings. Alternatively FEA could require that any filing be accompanied by the full text of any agreement or governing decree. Any informal or ancil-

lary understanding, whether or not in writing, would also have to be reported.

For arrangements not subject to detailed reporting requirements, FEA could have a notice requirement indicating the general nature of the arrangement and perhaps certain details such as the volume of crude covered and the price. In such cases, FEA could request a special report if the arrangement appears otherwise significant.

Reporting requirements could also be extended beyond post-agreement filings to require reports on significant negotiations in progress. Although this could provide the government with timely information concerning major developments, effective implementation of any mandatory presigning requirement could be difficult because of the continuous nature of negotiations. Moreover, such a requirement could invite unauthorized governmental interference in private commercial activity.

Reporting requirements in these areas may involve matters of considerable sensitivity, and before proceeding with proposed regulations FEA is asking interested persons for comment on the general proposal and the coverage any reporting requirements should have.

Persons should comment on whether or not there is a need for new reporting requirements in this area; the extent to which this material is already available to the U.S. Government; whether or not any requirements should be imposed on a before or after-the-fact basis; whether reports with access to the basic documents are sufficient; how major arrangements, subject to the detailed reporting requirements, could be identified or defined, especially in light of the elements listed above; what sort of analysis, if any, should accompany reports; and what sort of reporting or notice should be provided for arrangements not subject to detailed reporting requirements.

Interested persons are invited to submit written data, views, or arguments to Executive Communications, Room 3309, Federal Energy Administration, Box JL, The Federal Building, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to the Federal Energy Administration with the designation "Reporting Requirements: Foreign Oil Supply Arrangements." Fifteen (15) copies should be submitted. All comments received by 4:30 p.m., December 6, 1976, will be considered by the Federal Energy Administration in evaluating the need for further regulation in this area.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511,

Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

Issued in Washington, D.C., November 10, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc. 76-33704 Filed 11-11-76; 11:25 am]

FEDERAL MARITIME COMMISSION

BARBER-BLUE SEA LINE JOINT SERVICE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 6, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness with particularity. If a statement describing the discrimination on unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

BARBER-BLUE SEA LINE JOINT SERVICE

Notice of Agreement Filed by:

Milton J. Levitt, Esquire, Palmer & Series,
Attorneys at Law, 120 Broadway, New York,
New York 10005.

Agreement No. 10137-4, is an application on behalf of the member lines of the Barber-Blue Sea Line Joint Service to indefinitely extend the terms and conditions of the presently approved agreement, as amended, beyond the present termination date of September 26, 1977.

By order of the Federal Maritime Commission.

Dated: November 10, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 76-33627 Filed 11-12-76; 8:45 am]

MOORE-MCCORMACK LINES, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreement, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 6, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

MOORE-MCCORMACK LINES, INCORPORATED
COMPANHIA DE NAVEGACAO LLOYD BRASILEIRO
COMPANHIA DE NAVEGACAO MARITIMA NETUMAR

Notice of Agreement Filed by:

John D. Straton, Jr., Director-Rates & Conferences, Moore-McCormack Lines, Incorporated, Two Broadway, New York, New York 10004.

Agreement No. 10028-5, among Moore-McCormack Lines, Incorporated, Companhia de Navegacao Lloyd Brasileiro and Companhia de Navegacao Maritima Netumar, amends the basic pooling and sailing agreement by (1) incorporating, therein, certain articles pertaining to cargo subject to the pool, rates, minimum sailings, deficiencies, pooling formulas, accounting and settlements, and other administrative matters concerning the operation of the agreement, which are presently contained in Federal Maritime Commission Agreement Number 10027, as amended; (2) providing that Lloyd Brasileiro's and Netumar's participation in the basic agreement will be as a single

party; (3) increasing the minimum direct sailing obligations to 22 for each party for each six (6) month period; and (4) extending the basic agreement, as modified above, from January 1, 1977 through December 31, 1980.

By order of the Federal Maritime Commission.

Dated: November 10, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 76-33626 Filed 11-12-76; 8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. ER76-799 and ER76-800]

APPALACHIAN POWER CO.

Order Instituting Proceeding and Requiring Refunds

NOVEMBER 9, 1976.

On August 19, 1976, the Commission issued an order in the above-referenced proceeding accepting for filing and suspending proposed rate schedule provisions tendered by Appalachian Power Company (APCO). On August 9, 1976, Carolina Power & Light Company (CP&L) filed a petition to Intervene and Protest, Motion to Reject and Dismiss and in the Alternative Motion to Stay. APCO filed a response on September 3, 1976.

CP&L states it may not be represented adequately by any other party to this proceeding and that its rights may be adversely affected. It, therefore, requests that it be allowed to intervene. The Commission believes good cause exists to permit CP&L intervention.

CP&L in its pleading alleges that under Article 11, § 11.01 of the Interconnection Agreement between it and APCO, dated February 7, 1976, designated as APCO's Rate Schedule FPC No. 24 (1957 Agreement hereinafter), the question of submittal of the proposed rate increase as a unilateral filing is subject to arbitration. CP&L's pleading asserts various other grounds which it contends require rejection or dismissal of all or part of APCO's instant filing. APCO's response contends that Section 5 of Modification No. 3, dated March 1, 1972, to the 1957 Agreement permits a unilateral rate filing such as the instant one. APCO goes on to respond to the other factual allegations raised by CP&L's pleading.

The Commission's review of the 1957 Agreement indicates that section 5 does govern the instant proceeding. Article 3, § 3.02 of the 1957 Agreement states:

Inasmuch as the specific service to be rendered in furtherance of such purpose will vary from time to time during the duration of this agreement, and the terms and conditions applicable to such services may require modification from time to time, it is intended that such specific services and the terms and conditions applicable thereto will be set forth in service schedules from time to time arranged between the parties. Such service schedules upon agreement of the parties, initially by § 3.03 below subsequently by separate execution, shall become parts of

this agreement during the periods fixed by their respective duration.

This section indicates that the various service schedules are part of the 1957 Agreement and that the parties contemplated changing the "terms and conditions" of these service schedules in the future.

Modification No. 3 to the 1957 Agreement, dated as of March 1, 1972, was executed by representatives of both APCO and CP&L. The primary purpose of this modification was to change the various service schedules listed initially in Section 3.03 of the 1957 Agreement. Section 5 of this Modification states:

The 1957 Agreement as hereinabove modified is made subject to the jurisdiction of any governmental authority or authorities having jurisdiction in the premises, and any party may at any time or from time to time, unilaterally take any action before or with such authorities with respect to any term, or conditions of this Agreement that it deems desirable and in such event the terms and conditions under which service shall be rendered hereunder shall be the terms and conditions authorized by such authority.

The inclusion of "terms or conditions" in Section 5 indicates that the Section refers to the entire 1957 Agreement, including Service Schedules, and under § 3.02, noted above, is effective to modify the 1957 Agreement as a separately executed modification.

The Commission's review of Section 5, however, indicates that it does not intend a unilateral filing which shall become effective as a result of Commission acceptance of the filing, but rather that the proposed rates will be effective only upon final Commission approval of them. The words which lead to this result are: " * * * and in such event the terms and conditions under which service shall be rendered hereunder shall be the terms and conditions authorized by such authority." The Commission has held that phrases such as "ordered," "approved," "authorized" and "prescribed" * * * "by the Commission * * *" do not permit unilateral filing under Section 205 of the Federal Power Act. "e.g., South Texas Natural Gas Gathering Company," Docket Nos. RP75-53 and RP76-60, order issued February 27, 1976. (Mimeo 2-3, and cases cited therein.) Such phrases do permit application under section 206 of the Act to set the just and reasonable rate prospectively without placing the burden to meet the usual section 206, Sierra standard that before the rate may be changed, it must be shown that the existing rates are so low as to affect adversely the public interest on the applicant. In view of the fact that Section 5 of Modification No. 3 permits only application for prospective rate relief, and not unilateral filings, the Commission's prior order relating to APCO's proposed increase to CP&L must be changed. These rates cannot become effective under the contractual terms until final Commission approval. Accordingly, APCO shall be required to refund with interest, all amounts already collected from CP&L and to cease collecting under the proposed rates un-

til final approval of them by the Commission.

With regard to the questions of arbitration raised in the pleadings, the Commission concludes that submittal of the interpretation of these provisions to arbitration at this time would serve no useful purpose and would delay unnecessarily further proceedings. Article II, § 11.01 of the 1957 Agreement states:

In the event of disagreement between the parties with respect to (i) any matter specifically made subject to arbitration, (ii) any question of operating practices involved in the deliveries of power and energy herein provided for, (iii) any question of fact involved in the application of the provisions of this agreement, or (iv) the interpretation of any provision of this agreement, the matter involved in the disagreement shall, upon demand of either party, be submitted to arbitration in the manner hereinafter provided. An offer of such submission to arbitration shall be a condition precedent to any right to institute proceedings at law or in equity concerning such matter.

Subsection (iv) of this Article appears to be the controlling clause in this case because CP&L and APCO disagree over the proper interpretation of this section and section 5. CP&L states that its "position that the question of whether this matter can be submitted to the Federal Power Commission as a unilateral filing * * * is * * * a subject of arbitration." Regardless of the availability of arbitration to settle disputes concerning the proper interpretation of the Agreement, the Commission retains authority to review the contractual language. The Commission does not believe that arbitration of this question could lead to a different result than that reached here: Section 5 does not permit unilateral filings, but does permit application for prospective rate relief. Submittal of this question to arbitration at this point would serve no useful purpose because it would only lead back to this same point after additional delay. No purpose would be served by such action in the present state of this proceeding. While arbitration may be a useful device in many situations, the instant one does not present such a case in its present stance, and therefore, CP&L's motion to stay pending arbitration should be denied.

The Commission finds: (1) Section 5 of Modification No. 3 does not permit a unilateral filing, but only allows application for prospective rate relief.

(2) Good cause exists to reverse the August 19, 1976 order in this proceeding to the extent it allowed APCO's proposed rate increase to CP&L to become effective and to be collected, subject to refund.

(3) Good cause exists to require APCO to refund, with interest, all amounts collected from CP&L as a result of the proposed increase in this docket.

The Commission orders: (A) The August 19, 1976, order in this proceeding is hereby reversed to the extent that it allowed APCO's proposed rate increase to CP&L to become effective and to be collected, subject to refund. APCO's pro-

posed rates shall not become effective until final Commission approval of their justness and reasonableness.

(B) APCO shall be required to refund, with interest at 9 percent, within 30 days of the issuance of this order all amounts collected from CP&L as a result of APCO's proposal relating to CP&L in this docket.

(C) A Section 206 proceeding, under the standard contained herein, to determine the justness and reasonableness of APCO's proposal to CP&L is hereby instituted.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33611 Filed 11-12-76;8:45 am]

[Docket No. G-20270, etc.]

COLUMBIA GAS TRANSMISSION CORP.
Order Directing Release of Refunds, and
Granting Intervention

NOVEMBER 8, 1976.

On November 21, 1975, and December 29, 1975, the Columbia Gas Transmission Corporation (Columbia) successor to the United Fuel Gas Company (United Fuel) petitioned the Commission for the release of a total of \$1,126,454.51 in principal plus interest accumulated thereon held pursuant to various Commission orders by the producers listed in Appendix A. The Commission directed those producers to retain the refundable amounts pending a determination as to the proper procedure for disposition of these refunds by the purchaser. For the reasons hereinafter stated, the Commission shall permit Columbia to receive and retain the amounts to be refunded.

Columbia's petition states that the Company plans to retain the entire refundable amount inasmuch as it did not pass on the supplier rate increases in Columbia's rates for the period involved. Columbia notes that United Fuel's rate settlement in Docket No. G-20270, approved by Commission order issued January 26, 1967, as modified March 7, 1967, provides as follows:

ARTICLE II

(2) United shall not be required in this docket to pass on any refunds it may receive from suppliers as a result of the final determination of gas purchase increases which became effective after June 1, 1961, and which are not reflected in United's rates in this Docket No. G-20270.

Public notice of Columbia's petition was issued on December 11, 1975, with protests or petitions to intervene due on or before January 11, 1976. Sun Oil Company filed a petition to intervene on January 12, 1976.

The Commission's review of these dockets indicates that the rate increases which gave rise to the refunds here at issue became effective subsequent to June 1, 1961, and were not in fact reflected in

United Fuel's rates during the applicable refund periods. It follows, therefore, that Columbia is entitled to retain the refunds plus accrued interest under the terms of the above-mentioned rate settlement agreement, and Columbia's petition seeking release of these refunds will accordingly be granted.

The Commission orders: (A) The producers listed in Appendix A are hereby directed to disburse to Columbia, within 30 days from the date of issuance of this order, the applicable principal amounts retained, together with interest thereon calculated in accordance with applicable Commission orders and settlement agreements. The producers shall file a report of the disbursement, together with a release from Columbia, with the Commission.

(B) The above-named petitioner is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene: *And provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

COLUMBIA GAS TRANSMISSION CORPORATION
Producer Refunds Retained

Company and docket numbers:	Principal amount
Atlantic Refining Company, G-9283 and G-9284, et al.	\$ 371,942.08
Humble Oil & Refining Company, G-9287, et al.	145,900.08
George Despot, Agent (Operator) et al., and Texaco, Inc. CI65-974, et al., CI66-536 and CI66-537	465,000.00
Sun Oil Company, G-8288, et al.	113,772.93
Sunray DX Oil Company, G-8822, et al.	7,640.66
Gulf Oil Corporation, G-10615, et al.	22,198.76
Total principal retained.	\$1,126,454.51

[FR Doc.76-33621 Filed 11-12-76;8:45 am]

[Docket No. ER76-151]

DELMARVA POWER AND LIGHT CO.
Extension of Procedural Date

NOVEMBER 8, 1976.

On October 21, 1976, Public Service Commission of Maryland filed a motion to extend the hearing date in the above-designated proceeding.

Upon consideration, notice is hereby

given that the date set for the hearing is extended to November 17, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33616 Filed 11-12-76; 8:45 am]

[Docket No. ER76-816]

GULF STATES UTILITIES CO.

Order Granting Petitions to Intervene, Denying Motions to Reject, and Denying Motions for Change in Suspension Period

NOVEMBER 8, 1976.

By order dated August 31, 1976, the Commission accepted for filing and suspended certain rate schedules and rejected other rate schedules, all of which were filed by Gulf States Utilities Company (GSU) in the instant case. A Petition to Intervene, Protest, and Motion to Reject Rate Filing was filed by Sam Rayburn Dam Electric Cooperative (Sam Rayburn) on September 1, 1976. Protests, Requests for Hearing and Five Month's Suspension, and Petitions to Intervene were filed individually by Kirbyville Light & Power Company (Kirbyville), the City of Caldwell, Texas (Caldwell), the City of St. Martinville, Louisiana (St. Martinville), Cajun Electric Power Cooperative, Inc. (Cajun), Mid-South Electric Cooperative Association (Mid-South), and Houston County Electric Co-op, Inc. (Houston) (collectively Group I) on September 1, 1976. Motions to Reject Filing, Protests and Petitions to Intervene, Requests for Hearing and Five Month's Suspension were filed individually by City of Abbeville, Louisiana (Abbeville), City of Rayne, Louisiana (Rayne), Town of Gueydan, Louisiana (Gueydan), City of Kaplan (Kaplan), and Town of Erath, Louisiana (Erath) (collectively Group 2) on August 27, 1976. An Answer to these pleadings was filed by GSU on September 14, 1976.

The pleadings filed by each party in Group 1 raise issues relating to return on common equity, allocation of costs and facilities, and a possible anti-competitive situation. Based upon these allegations, each of the Group 1 pleadings contends that GSU's rates in this case are unlawful and requests that "they not be approved or authorized, and that their effectiveness be immediately suspended for the five months' statutory period." The issues raised in these pleadings are factual and cannot be disposed of as a matter of law at this stage of the proceeding. Accordingly, no basis exists for granting the motions to reject. The request for a five month suspension should be denied. The August 31, 1976, order in this docket set a three-month suspension period for these proposed rates. Nothing new has been raised in these pleadings which would require a change in that suspension period. The length of the suspension period is a matter within the Commission's discretion. "Municipal Light Boards v. FPC", 450 F2d 1341 (D.C. Cir. 1971). The establishment of a three-month suspension in this case was proper, in our opinion, and should not be

changed. The petitions to intervene by each of the parties in Group 1 should be granted because each is a customer of GSU and has an interest in the outcome of this proceeding which will not be represented adequately by any other party.

The pleadings filed by each of the parties in Group 2 raise issues relating to the amount of the proposed increase, the allocation methodology and possible anti-competitive implications of GSU's filings. There are factual issues which cannot be disposed of at this stage of the proceeding as a matter of law. These issues do not provide a proper basis upon which a motion to reject can be granted. Each of these pleadings requests also that a five-month suspension period be established. For the same reasons stated above, the Commission does not believe a change in the suspension period previously ordered in this case is warranted. The Commission believes that intervention should be granted for each of the parties in Group 2 because each is a customer of GSU having a substantial interest in the outcome of this case which cannot be represented adequately by any other party.

In addition to the other arguments raised by the pleadings of Group 2, Rayne states in its Motion that the Sierra doctrine prohibits GSU from seeking a unilateral rate change. The applicable portion of the Agreement for Electric Service between GSU and Rayne states:

The rate charged Customer will be Company's standard rate schedule in effect for like conditions of service to the class of service furnished Customer. If a rate increase or decrease should be made applicable to the class of service furnished Customer, by the Company or by order or permission of any regulatory body having jurisdiction thereof, such increased or decreased rates shall be applicable to the service rendered hereunder from and after the effective date of such rate change. (Paragraph 4. Rate and Use of Service.)

The underlined language contemplates use of a unilateral filing by the company to increase its rates. Accordingly, GSU's unilateral filing is not barred by application of the Sierra doctrine, and no reason exists to reject the filing to Rayne on such grounds.

GSU's Answer responds to the rate of return, allocation method and anti-competitive discrimination issues raised by the other parties. As was indicated, these are factual issues which require further development before they can be decided. GSU states that the allegations relating to anticompetitive discrimination "do not meet the minimum standards required by this Commission to validly raise anticompetitive issues." The Commission believes, on the contrary, that the pleadings raise this issue in sufficient form to allow the Commission a "first cut" in determining whether to continue litigation on this issue. "Municipal Light Boards, supra", 450 F2d at 1348; 18 CFR 1.7(a) and 1.8(c) (1976). Raising the issue does not mean, of course, that the party will prevail ultimately on the is-

sue; that burden requires more evidence than shown in these pleadings. However, such evidence can be developed and examined during the further litigation of this case.

GSU requested a declaratory order "that service under such 'suspended' contracts is in fact terminated and not subject to reinstatement." The suspended contracts to which GSU refers are those it has with the individual members of Sam Rayburn Electric Cooperative.¹ These contracts were superseded by the 1964 contract between Sam Rayburn Electric Cooperative and GSU. Nevertheless, GSU states it "felt obligated to up-date the rate schedules still on file, though inoperative, with the individual members of Sam Rayburn." The request for the declaratory order raises a new issue in this proceeding. While the Commission has sufficient information from GSU's pleading to determine its position and the basis therefor, Sam Rayburn Electric Cooperative and its members did not address this specific issue. Accordingly, Sam Rayburn Electric Cooperative and its members will be given fifteen days from the issuance of this order to file a responsive pleading to GSU's request for a declaratory order here.

The Commission finds no merit in GSU's contention that Sam Rayburn Electric Cooperative does not have a sufficient interest in this proceeding to require granting intervention. Sam Rayburn purchases energy from GSU and then resells it to its members under the present contractual arrangement. Because of this interrelationship and because Sam Rayburn is made up of certain GSU customers the Commission finds that it has sufficient interest in the outcome of this proceeding to warrant its intervention.

The Commission finds: (1) Good cause exists to grant the intervention of the named parties herein.

(2) Good cause exists to deny all the various Motions to Reject.

(3) Good cause does not exist to change the length of the suspension period ordered previously in this proceeding.

The Commission orders. (A) All Motions to Reject already filed in this case are hereby denied.

(B) Sam Rayburn and its individual members shall be allowed fifteen days from the issuance of this order to file any responsive pleadings to GSU's request in its September 14, 1976, pleading for a declaratory order as to whether service under the "suspended" contracts is terminated.

(C) The above-named petitioners are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however*, That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene: *And provided, further*, That

¹ These contracts are designated as GSU's FPC Rate Schedules 24, 69, 71, 86, 95, and 96.

the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-33612 Filed 11-12-76; 8:45 am]

[Docket No. E-7561, Project No. 1889]

HOLYOKE WATER POWER CO., ET AL.
Order Approving Settlement Agreement
With Modification

NOVEMBER 8, 1976.

This proceeding traces its origin to our Order Instituting Investigation, Consolidating Proceedings, And Directing That a Hearing Be Held in Docket No. E-7561, issued May 10, 1971 (45 F.P.C. 939). Therein the Commission was acting upon a petition filed by the Massachusetts Division of Fisheries and Game, the Connecticut Board of Fisheries and Game, the New Hampshire Fish and Game Department, and the Vermont Fish and Game Department (collectively referred to as Fisheries Agencies) which requested a hearing concerning restoration of runs of American shad and Atlantic salmon in the Connecticut River at Project No. 2004 of the Holyoke Water Power Company (Holyoke), Project No. 1889 of the Western Massachusetts Electric Company (WMECO), and Projects Nos. 1855, 1892, and 1904 of the New England Power Company (NEPCO). The Fisheries Agencies requested, inter alia, that the Commission order fish passage facilities to be installed at the above projects, appending a letter to this Commission from the Secretary of the Interior requesting the staged installation of such facilities. The Commission thereupon ordered an investigation and provided that a public hearing be held.

Attention of the interested parties focused initially upon Holyoke (or Hadley Falls) Project No. 2004 because it is the lowermost of the five licensed dams on the Connecticut River referred to above. Hearings were held in abeyance

passage facilities pursuant to the settlement agreement. As discussed further hereafter, the facilities at Project No. 2004 are now installed and operating successfully.

The interested parties¹ then focused their attention on the next upstream dam on the Connecticut River, the Turners Falls Project No. 1889. Negotiations were conducted with WMECO over a period of years but were stalled because of Licensee's asserted inability to commit itself financially for the construction of fish facilities. On February 12, 1975, intervenors petitioned the Commission to consolidate the matters of the application for a new license for Project No. 1889 and the investigation in Docket No. E-7561 as they relate to each other and then to set the consolidated proceeding for hearing on an expedited schedule. While denying the petition for consolidation in its order of June 9, 1975,² the Commission stated:

[We] are directing the Presiding Administrative Law Judge to proceed under our existing hearing order in Docket No. E-7561 in an expeditious manner to the resolution of the issue, as to when fish passage facilities should become operational at Turners Falls.

To further expedite this matter we are approving at this time the functional drawings for fish passage facilities for the Turners Falls Project No. 1889 as proposed in Western Mass's supplemental March 4, 1974 filing.

A prehearing conference was thereafter held and testimony and exhibits filed by the parties and Commission Staff. A hearing commenced on October 28, 1975, but was adjourned sine die to permit settlement negotiations.

On May 10, 1976, WMECO moved that there be certified to the Commission for consideration and approval a settlement agreement dated March 1, 1976, which was submitted with the motion. The Presiding Administrative Law Judge certified said agreement together with the record of the conference and hearing (consisting of Volumes 1-7, Exhibits 1-22, 25-42, 50, 75-87, and 103) on May 18, 1976. Public notice of this certification was issued and comments were received from Commission Staff and the

¹In addition to the previously identified Fisheries Agencies and Licensees, the interested parties also include the Environmental Defense Fund Inc., Western Massachusetts Public Interest Research Group Inc., and For Land's Sake, which groups were granted intervention in Docket No. E-7561 after public notice of the settlement agreement for Project No. 2004. These intervenors did not oppose the settlement agreement. On May 16, 1973, Trout Unlimited filed a late intervention in this proceeding which was granted by Commission Order issued July 31, 1973.

²Order Denying Motion for Consolidation, Approving Fish Passage Facilities for Turners Falls and Directing the Presiding Administrative Law Judge to Proceed with the Hearing, Holyoke Water Power Co., Western Massachusetts Electric Co., New England Power Co., Project No. 1889, Docket No. E-7561, 53 F.P.C. (1975).

Commonwealth of Massachusetts, both in favor of the settlement.

Subsequent to the execution of the settlement agreement, the Commission issued an order on June 14, 1976, approving revised Exhibit S functional design drawings of the proposed fish passage facilities at Turners Falls.⁴ The changes are limited largely to modifications to the spillway fishway entrance and attraction water facilities. These revised drawings were developed through cooperation between WMECO and the Technical Committee for Fisheries Management of the Connecticut River Basin (Technical Committee),⁵ with active participation of a fishery biologist from the Commission Staff. Said drawings were approved by all the parties to this proceeding and therefore supersede the design drawings appended to the previously filed settlement agreement.

The Commission's order approving the revised drawings stated that said order did not authorize construction of the facilities shown thereon, but rather that the timing of the construction and operation of the facilities is the subject of a separate proceeding, i.e. Docket No. E-7561. As noted above, the question of WMECO's financial ability to construct fish facilities at Project No. 1889 has been the major obstacle to settlement from the beginning. The agreement now before us provides, inter alia, a timetable for the construction and operation of permanent fish passage facilities at Turners Falls. We turn now to a brief description and discussion of the terms of the settlement agreement.

In general, the proposed settlement agreement before us provides for the financing and scheduling of the construction and operation of facilities designed to permit the upstream migration of American shad and Atlantic salmon past the Turners Falls Project. Installation of three separate fishways, known as the Cabot Powerhouse Fishway, the Gatehouse Fishway, and the Spillway Fishway, is provided for. As discussed previously, the design of these facilities is not an issue herein since it has already been approved by our order of June 14, 1976, supra. The settlement agreement specifically refers to the revisions and "pending" Commission approval thereof in Paragraph 1.

Paragraph 2 of the agreement contains the timetable for construction of the facilities. This schedule is tied to WMECO's financial condition to ensure that sufficient funds are available. However, except for events beyond the control of WMECO (as noted in Paragraph 3

⁴Order Approving Revised Exhibit S, Western Massachusetts Electric Co., Project No. 1889, 55 F.P.C. (1976).

⁵The Technical Committee is an interagency organization responsible for coordinating interstate fishery research and development. The members of the Committee include representatives of the States of Connecticut, Massachusetts, Vermont, and New Hampshire; the National Marine Fisheries Service of the U.S. Department of Commerce; and the Fish and Wildlife Service of the U.S. Department of the Interior.

¹Next upstream is the Turners Falls Project No. 1889, followed by Projects Nos. 1904 (Vernon), 1855 (Bellows Falls), and 1892 (Wilders).

while settlement discussions proceeded. On May 18, 1972, the States of Massachusetts, Vermont, Connecticut, and New Hampshire, the U.S. Fish and Wildlife Service, and Holyoke Water Power Company filed with the Commission a settlement agreement regarding fish passage facilities at Project No. 2004. On May 1, 1973, (49 F.P.C. 1067), in Docket No. E-7561, the Commission issued an Order Prescribing Modifications to Fish Facilities and Continuing Proceeding, wherein the Licensee for Project No. 2004 was required to modify its existing fish

of the agreement), mandatory construction of the Cabot Powerhouse and Gatehouse Fishways is to begin on or before December 1, 1978, and the facilities must be in operation by May 1, 1981. Likewise, the Spillway Fishway must be operational by May 1, 1984, with construction to begin on or before December 1, 1982. We believe that these provisions are acceptable in that they provide for the earliest possible installation of the facilities without placing an undue financial burden upon WMECO.

Paragraph 4 states that WMECO shall be financially responsible for the operation and maintenance of the fish passage, fish trapping, and fish counting facilities. The Fisheries Agencies will provide for the personnel used to conduct any trapping or counting activities.

Paragraphs 5 and 6 provide guidelines for the operation of the project and minimum flows during fish migration periods. If WMECO and the Fisheries Agencies fail to agree on the actual operating schedule of the fish passage facilities, it will be determined by a panel of three fishery biologists, one designated by WMECO, one by the Fisheries Agencies, and one by the FPC. The panel shall also determine the date for terminating the minimum flow.

Paragraph 7 requires WMECO, prior to the operation of the Cabot Powerhouse and Gatehouse Fishways, to reimburse the Fisheries Agencies for reasonable expenses incurred by them in trucking Atlantic salmon from the dam of Project No. 2004 to natural spawning areas in Vermont and New Hampshire.

Paragraph 8 of the agreement provides for the filing by WMECO with the Commission of sufficiently detailed financial reports to permit verification of whether there has been a satisfaction of the financial condition (as defined in Paragraph 2) so that construction must begin. This information is submitted on the understanding that it will be treated as privileged and confidential in accordance with the Freedom of Information Act (FOIA)⁵, specifically section 552(b)(4). However, any party to the settlement agreement would be able to review the information provided that it be held in confidence.

On the basis of the record now before us, we fail to see any reason for keeping confidential the financial information to be submitted by WMECO pursuant to Paragraph 8 of the Settlement Agreement. WMECO is a regulated public utility. The installation of the fish passage facilities at Project No. 1889 is necessary and in the public interest in order to restore the runs of American shad and Atlantic salmon in the Connecticut River. While the settlement proposal provides that any party to the settlement may review the information to be submitted, we think the general public should not be excluded. Clearly, the general public has an interest in the timing of the installation of needed fish facilities at Turners

Falls. Thus, we can only accept Paragraph 8 of the Settlement Agreement if the proviso that the information be kept confidential is stricken.

Paragraph 9 states that while WMECO will bear the financial burdens spelled out in the agreement, the Fisheries Agencies will support efforts to obtain contributions from Federal or other public sources. Paragraph 10 merely binds the interested parties to cooperate in the prompt submittal of the agreement to the FPC. Paragraphs 12 and 13 list the addresses of parties designated for official service of documents and provide that the agreement and actions proposed thereunder are subject to the jurisdiction and approval of the FPC.

In Paragraph 11 the Fisheries Agencies and Intervenor agree to relinquish any further demands upon WMECO with respect to upstream fish passage facilities for the period of the next long-term license issued by the FPC for Project No. 1889. However, it is specifically not intended that the agreement prejudice the rights of any party to address itself to facilities which may be necessary to insure safe downstream fish migration. We note that the Fisheries Agencies and Intervenor are voluntarily limiting their rights under Article 34 of the license for Project No. 1889. However, our own authority in this matter under that Article and the Federal Power Act is in no way diminished by our acceptance of the settlement agreement. We thus find no reason to object to this provision.

We also wish to reiterate at this time our support for the entire program to restore anadromous fish runs to the Connecticut River. We have previously stated this position in our several orders in Docket No. E-7561 as well as Project No. 1889. We congratulate all parties—licensee, fisheries agencies, and others—for the success thus far achieved at Project No. 2004. We note Staff's statement in its comments upon this settlement agreement that approximately 340,000 American shad passed over the lift facilities at Holyoke in 1976—a figure well above the most optimistic prediction of any witness that testified in this proceeding. In view of this success, we urge all parties to begin at the earliest possible date to discuss the installation of necessary facilities at the next upstream dam on the Connecticut River. Our staff will be available for consultation and assistance in this matter and we will promptly consider any agreements offered by the parties concerning such facilities.

Based upon our review of the settlement agreement, the comments thereon, and the record in this proceeding, we believe that the agreement, except for the second sentence of Paragraph 8 relating to confidentiality, and as modified by our order approving a revised Exhibit S for Project No. 1889 issued June 14, 1976, supra, adequately meets the need for upstream fish passage facilities at Turners Falls and is in the public interest and should therefore be approved and made effective as hereinafter ordered.

The Commission finds. (1) The program to restore runs of anadromous fish to the Connecticut River is appropriate and in the public interest in accordance with the provisions of the Federal Power Act.

(2) The provisions for providing fish passage facilities at Project No. 1889 as provided for in the instant Settlement Agreement and our order of June 14, 1976, are needed for, and appropriate in, the continuation of the program to restore runs of anadromous fish to the Connecticut River.

The Commission orders. (A) The Settlement Agreement certified to us by the Presiding Administrative Law Judge is incorporated herein by reference, and is hereby approved subject to the modifications of Paragraph 8 as discussed herein and of the design drawings of the fish passage facilities pursuant to our order of June 14, 1976, in Project No. 1889.

(B) This order is without prejudice to any finding or orders that have been made or that may hereafter be made by the Commission, and is without prejudice to any claims or contentions that may be made by the Commission, its staff, or any party or persons affected by this order, in any proceeding now pending or hereafter instituted by Western Massachusetts Electric Company or any person or party, except as provided in the settlement agreement.

(C) The proceeding in Docket No. E-7561 is continued pending further order of the Commission.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-33610 Filed 11-12-76; 8:45 am]

[Docket No. RP77-5]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Proposed Changes in FPC Gas Tariff

NOVEMBER 9, 1976.

Take notice that Kansas-Nebraska Natural Gas Company, Inc., on October 29, 1976 tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by \$4,792,541 based on the 12 month period ending June 30, 1976, as adjusted.

Kansas-Nebraska states that the jurisdictional rates filed herewith are designed to enable Kansas-Nebraska to recover increases in its jurisdictional cost of service resulting from: (1) Additional facilities required to connect new sources, of supply and to maintain deliverability from existing sources of supply; (2) gas exploration and development; (3) increased operating costs due to higher costs of labor, materials and supplies; (4) new underground storage facilities; (5) increased revenues needed to provide a return of 11.02% on its

⁵ 5 U.S.C. 552, as amended by Pub. L. 93-502, 88 Stat. 1561.

utility investment; (6) increased depreciation rate on transmission facilities; and (7) increased income, payroll and property taxes.

In addition to the change required to reflect the increased rates Kansas-Nebraska proposes to alter its existing tariff to reflect the zones contained within the stipulation and agreement certified by the Administrative Law Judge to the Commission on September 8, 1976 in Docket No. RP76-8 et al.

Copies of the filing were served upon the Company's jurisdictional customers and interested public bodies. In addition, the tariff provision concerning restrictions on new or additional service was served upon the industrial and alfalfa dehydration customers served directly by the Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33604 Filed 11-12-76;8:45 am]

[Docket No. E-9206]

MCDOWELL COUNTY CONSUMERS COUNCIL, INC. AND AMERICAN ELECTRIC POWER CO., ET AL.

Notice of Withdrawal

NOVEMBER 8, 1976.

On September 27, 1976, Kaiser Aluminum and Chemical Corporation filed a motion to withdraw its petition for leave to intervene filed on August 25, 1975 in the above-designated proceeding.

Notice is hereby given that pursuant to § 1.11(d) of the Commission's rules and regulations, the withdrawal of the above application became effective on October 27, 1976.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33613 Filed 11-12-76;8:45 am]

[Docket No. RP71-16 (PGA77-1)]

MIDWESTERN GAS TRANSMISSION CO.

Proposed Northern System PGA Rate Adjustment

NOVEMBER 8, 1976.

Take notice that on October 29, 1976, Midwestern Gas Transmission Company

(Midwestern) tendered for filing Sixteenth Revised Sheet No. 5 in Third Revised Volume No. 1 of its FPC Gas Tariff, to be effective on January 1, 1977.

Midwestern states that the sole purpose of the revised tariff sheet is to reflect a PGA rate adjustment for its Northern System. Midwestern states that the PGA rate increase reflected on Sixteenth Revised Sheet No. 5 is based upon an increase, effective January 1, 1977, to \$1.94 (Canadian) per MMBtu in the price which Midwestern is required by action of the Canadian Government to pay for gas to its Northern System supplier, TransCanada Pipe Lines Limited.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. *Provided, however,* That any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33618 Filed 11-12-76;8:45 am]

[Docket No. ER77-31]

MISSISSIPPI POWER CO.

Filing of Contract

NOVEMBER 8, 1976.

Take notice that on October 21, 1976, Mississippi Power Company (MPCo) tendered for filing a contract between it and the Southeastern Power Administration (SEPA), United States Department of Interior. MPCo states that the contract provides for wheeling of power on behalf of SEPA to three Rural Electrification Administration Cooperatives presently being served by MPCo, and for the availability of capacity of South Mississippi Electric Power Association which may from time to time be purchased by MPCo.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 29, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make pro-

testants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33617 Filed 11-12-76;8:45 am]

[Docket No. RP76-106]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Filing of Motion To Make Tariff Sheets Effective

NOVEMBER 8, 1976.

Take notice that on October 26, 1976, Natural Gas Pipeline Company of America (Natural) filed with the Federal Power Commission a Motion to Make Suspended Tariff Sheets Effective. Natural moves to make effective December 1, 1976 the tariff sheets filed on May 28, 1976 in this proceeding with certain revisions. Revised tariff sheets were filed in conjunction with Natural's Motion.

Natural states that it has made the following revisions to its May 28, 1976 tariff filing: (1) The restatement of its accumulated reserve for depreciation, with the corresponding changes in the allowance for return and taxes; (2) the exclusion from working capital of claimed uncovered purchase gas costs; (3) a change in rate design from an unmodified "Seaboard" to the "United" Formula; and (4) the cumulative PGA unit adjustment to be effective as of December 1, 1976.

Natural also states that it has further revised several other tariff sheets that were filed May 28, 1976 to reflect wording changes that have been approved subsequent to its rate filing.

Natural states that copies of the Motion, together with the revised tariff sheets, appendices, Agreement and Undertaking, and Resolution have been served on all of Natural's jurisdictional customers, all parties to this proceeding, and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33606 Filed 11-12-76;8:45 am]

[Docket No. ER76-875]

NEVADA POWER CO.

Order Accepting for Filing and Suspending Rate Schedule

NOVEMBER 5, 1976.

On August 24, 1976, the Nevada Power Company (NPC) tendered for filing a proposed change in its wholesale rate¹ applicable to Cal-Pac at Needles, California requesting that the date of tender be the effective date. NPC's filing was completed on October 8, 1976, upon the receipt of additional data. The proposed change would increase revenue from Cal-Pac by approximately \$296,520 (21.54%) based on the 12-month period ending July 31, 1977.

Notice of the filing was issued on September 2, 1976, with responses due on or before September 20, 1976. On September 20, 1976, Cal-Pac filed a petition to intervene, noting that its current rates for service from NPC are subject to refund in Docket Nos. E-9140 and ER76-40. It requests a full five-month suspension of the proposed rate increase.

The Commission's review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. The fuel adjustment clause included in the proposed rate does not comply with the requirements set forth in Order No. 517 issued November 13, 1974, in that the proposed adjustment includes total system losses rather than wholesale losses. The Commission therefore suspends the proposed rates for five months and establishes hearing procedures.

The Commission finds: (1) Good cause has not been shown to warrant waiver of the notice requirement pursuant to § 35.11 of the Commission's Regulations.

(2) Good cause exists to accept for filing NPC's proposed increased rates tendered for filing on August 24, 1976 and October 8, 1976, and to suspend those rates for five months following 30 days after completion of filing, to become effective April 8, 1977, subject to refund, pending the outcome of a hearing and decision thereon.

The Commission orders: (A) Pending a hearing and decision thereon, NPC's proposed rate schedule is hereby accepted for filing and suspended from operation for five months following 30 days after completion of filing, to become effective April 8, 1977, subject to refund.

(B) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a hearing shall be held concerning the justness and reasonableness of the rate increases proposed by NPC's filing.

¹ Proposed rate schedule designation: Nevada Power Company Supp. No. 11 to Rate Schedule FPC No. 1.

(C) Commission Staff shall prepare and serve top sheets on all parties for purposes of settlement on or before March 1, 1977. (See Administrative Order No. 157)

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 35(d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the rules of practice and procedure.

(E) NPC shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rate filed herein, as required by § 35.19a of the Commission's Regulations, 18 CFR Section 35.19a.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-33620 Filed 11-12-76; 8:45 am]

[Docket No. RP77-3]

NORTHERN NATURAL GAS CO.

Filing of Petition for Continued Rate Base Treatment of Advance Payments

NOVEMBER 8, 1976.

Take notice that on October 21, 1976, Northern Natural Gas Company ("Northern") filed a petition for continued rate base treatment of advance payments which remain unrecovered under some 31 agreements set forth on Appendix C to the Stipulation and Agreement filed October 18, 1976 in Docket No. RP76-89. Northern requests continued rate base treatment for rate purposes for the outstanding balances of unrecovered advance payments during the periods of recovery provided in the respective agreements which may be in excess of five years. The agreements containing provisions for recovery over periods in excess of five years and the unrecovered advance payment balance under each agreement are detailed on Appendix C to the Stipulation and Agreement filed in Docket No. RP76-89. The aggregate amount of the unrecovered advances is stated by Northern to be \$4,049,000.

Northern further states that of the 31 agreements set forth on such Appendix C, 18 were executed prior to issuance of Order No. 410 while the remaining 13 agreements were executed subsequent to Commission Order Nos. 410 and 410-A.

The recoupment of advance payment contractual provisions is summarized in the Petition. Northern states that the advances under the 31 agreements enabled Northern to obtain new gas reserves otherwise not available in areas where the reserves could be promptly attached to Northern's existing system at a time when Northern was in need of substantial new gas commitments. Further, Northern states that in each instance it obtained a commitment of the gas and that the aggregate volume of reserves acquired under the 31 agreements was approximately 453 Bcf. The Petition also states that Northern sought to assure itself that the advances were no more than the producers' well costs and that at the time it executed the agreement, it attempted to relate the advance to the reserves to be acquired and the resulting production, but that since it did not have the benefit of production histories on the wells in question, accurate advance estimates of reserves in advance of production were extremely difficult and some subsequent adjustments are inevitable after production experience. Further, the Petition alleges that the costs associated with the unrecovered advances were reasonably and prudently incurred and, therefore, Northern is legally and equitably entitled to recover such costs.

Any person desiring to be heard or to protest said Petition should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before November 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Petition are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-33615 Filed 11-12-76; 8:45 am]

[Docket No. CP77-26]

NORTHERN NATURAL GAS CO.

Application

NOVEMBER 8, 1976.

Take notice that on October 21, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP77-26 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant, at the request of one of its utility customers, to realign volumes within their authorized Contract Demand, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that North Central Public Service Company (North Central) a utility customer of Applicant, requested Applicant to reclassify Forjay, Inc. from a Large Volume Firm Customer to a Small Volume Firm Customer. It is further stated that Forjay, Inc. did not exceed 200 Mcf per day during the 1975-76 heating season. North Central also requested that the Contract Demand currently allocated to Forjay, Inc. be realigned to the community of Lexington, it is said.

Applicant proposes to reclassify Forjay, Inc. as a Small Volume Firm Customer. It is asserted that reclassification of firm service for Forjay, Inc. and the reassignment of such service would allow North Central to achieve maximum utilization of presently authorized service in meeting their requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33619 Filed 11-12-76; 8:45 am]

[Docket No. ER77-32]

OHIO POWER CO.

Tariff Change

NOVEMBER 8, 1976.

Take notice that Ohio Power Company, on October 28, 1976, tendered for filing a proposed supplement to the Station

Agreement, dated as of January 1, 1968, as amended, among Cardinal Operating Company, Ohio Power Company and Buckeye Power, Inc.

Ohio Power Company states that the proposed supplement designates the applicable rate provisions for the supply of interim power and energy to Buckeye Power, Inc. in accordance with Amendment No. 1, dated as of October 1, 1973, to such Station Agreement, until the operation of a 615 MW generating unit being constructed and owned by Buckeye Power, Inc. at the Cardinal Station.

An effective date of November 27, 1976 is requested. Waiver of certain filing and notice requirements is also requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33605 Filed 11-12-76; 8:45 am]

[Docket No. E-9388]

PHILADELPHIA ELECTRIC CO.

Order Approving Settlement Agreement

NOVEMBER 8, 1976.

On April 18, 1975, Philadelphia Electric Company (Philadelphia) tendered for filing proposed rate schedule supplements on behalf of itself and Susquehanna Electric Company (Susquehanna) to increase the cost of service to their affiliate Conowingo Power Company (Conowingo). By order of June 9, 1975, the Commission accepted for filing and suspended the new rates until August 18, 1975. By order of September 26, the Commission granted a staff motion which requested that Philadelphia file revised tariff sheets reflecting the exclusion of construction work in progress (CWIP) from rate base and to refund any amounts collected by reason of the inclusion of construction work in progress.

Following settlement discussions among Philadelphia, Public Service Commission of the State of Maryland (PSC) and the Commission staff, a settlement agreement was reached. The settlement reduced the rate increase from \$5,658,000 to \$3,496,000. The reduction was based upon the elimination of CWIP from Philadelphia's rate base and reduction of Philadelphia's claimed overall rate of return from 10.33 percent, including a 15 percent rate of return on common equity, to a 9.5 percent overall rate of return with a 13 percent return on

common equity. By order of January 21, 1976, the proposed settlement rates were approved and the proceeding terminated.

On February 20, 1976, Congressman Robert F. Bauman, and the Peoples Counsel for the State of Maryland (Peoples Counsel) filed petitions to reopen the proceedings in this case. By order of March 19, 1976, both petitions to intervene were granted and the Commission ordered that the record in this proceeding be reopened to permit the petitioners to present their positions, views and any evidence showing why the settlement rates are not just and reasonable. A prehearing conference was convened on April 15, 1976. At the prehearing conference the parties indicated that no challenge would be made to the rate filings, as modified, and that no evidence would be presented. It was agreed that Peoples Counsel would submit a brief setting forth legal arguments in support of its position and that the other parties would file briefs in response. The Presiding Judge advised the parties that after the filing of briefs, motions requesting further proceedings prior to the certification of the record to the Commission would be entertained. No motions were received by the Presiding Administrative Law Judge and upon completion of the filing of all briefs the Presiding Administrative Law Judge certified the record in this proceeding to the Commission on September 3rd.

The Susquehanna Power Company, a Maryland corporation, has corporate power to build and own a dam across the Susquehanna River. The Philadelphia Electric Power Company, a Pennsylvania corporation, has power to own that part of the pool created by the dam located in Pennsylvania and also transmission lines in Pennsylvania. Susquehanna Electric Company, a Maryland corporation, leases the dam from Susquehanna Power Company, operates it, and sells power to Conowingo Power Company and Philadelphia Electric Company. Conowingo Power Company, a Maryland corporation, has power to supply electricity in Harford and Cecil Counties in Maryland. Philadelphia Electric Company, a Pennsylvania corporation, has power to supply electricity in Philadelphia and counties in southeastern Pennsylvania. Philadelphia Electric Company owns 100% of the stock of each of these corporations.

In its brief Peoples Counsel contends that jurisdiction over the Conowingo Dam, and the power generated there, lies with the Public Service Commission of Maryland. Peoples Counsel contends that all the power produced by the Conowingo Dam in Maryland is consumed in Maryland. Peoples Counsel points out that the charter granted to Susquehanna Power Company by the Maryland Public Service Commission provides that all the power generated at the dam should be sold in Maryland. While Peoples Counsel concedes that the energy flows through Maryland to Pennsylvania and back to Maryland it contends that it is essentially produced and consumed within the state of Maryland.

Peoples Counsel contends that the intercorporate relationship clearly establishes that Philadelphia Electric Company owns all the production and transmission facilities involved here; therefore, there is no wholesale sale of electric energy in interstate commerce. Peoples Counsel contends that Philadelphia Electric Company has complete control of all aspects of this transaction despite the fact that it elected to have its production under a Maryland corporate entity, transmission under a Pennsylvania corporate entity, and distribution under a different Maryland corporate entity. Peoples Counsel contends that these are not independent entities and should not be accepted as such where to do so would deny the state regulatory power essential to the institution of just and reasonable utility rates.

Peoples Counsel deems it significant that where hydroelectric power is produced in Maryland and thereafter commingled with electric energy flowing from another state and sold to Maryland customers, and where the respective patrons of hydroelectric energy are ascertainable, the sale of such hydro power is subject to the jurisdiction of Maryland. Peoples Counsel states its belief that there is no significance to the commingling as to Maryland consumers as the system is merely a conduit and the mixture is the creature of convenience rather than the beginning of interstate commerce. Peoples Counsel further contends that there is authority to establish that a wholly intrastate sale and use of electric energy does not take on interstate character because at some point between sale and delivery it passes through an adjoining state. Peoples Counsel concludes that this transaction involves the production and transmission of energy solely for the use of the consumer and not a sale for resale.

Peoples Counsel points out that the charter granted to Susquehanna Power Company contains distinct obligations to serve the Maryland territory and that these obligations are binding on the company. Peoples Counsel's brief states that the brief of the Counsel of Public Service Commission of the State of Maryland will explain why Maryland has not exercised the authority it retained in the charter of 1926. On June 10, 1976, the Public Service Commission of the state of Maryland filed its response in this proceeding. It stated that "for various reasons" it had decided not to comment on the issues raised.

Philadelphia filed a response to the brief of Peoples Counsel. Philadelphia states that Maryland has no special claim to the power from this regional hydro project and can not confine that power it produces to one state. Philadelphia points out that all the parties knew that the hydro power had to be combined with steam power from Pennsylvania to make the project feasible. Philadelphia contends that the order of the Maryland commission in 1926 recognized the essential fact that the stream flow of the Sus-

quehanna River is so variable that the resource could only be developed in conjunction with the steam plant that would supply power as the hydro power diminished. The Maryland order recognized that Philadelphia was the only market which had a sufficiently large steam plant to do this. Philadelphia therefore concludes that from the very inception, it was recognized by all the parties that the power supply to Maryland from the dam would have to be supplemented, or mixed, with conventional steam power generated from Pennsylvania.

Philadelphia points out that the 1926 order is now irrelevant because its theory is obsolete. The sale to Conowingo is a sale for resale in interstate commerce not because some of the hydro power may be transmitted into Pennsylvania before being distributed in Maryland, but because the power sold to Conowingo includes power generated in Pennsylvania. The inclusion in a sale of any interstate power makes the sale one in interstate commerce.

Philadelphia points out that this Commission has long asserted jurisdiction over transactions between affiliated companies. Philadelphia states that Peoples Counsel has cited no precedent for ignoring separate corporate identities in the administration of the Federal Power Act because of close affiliation. It is an established principle of law that the corporate entities should be recognized and upheld absent specific unusual circumstances such as fraud. Philadelphia contends that the various corporate entities were and are important for financing and regulatory purposes and that these differences have legal significance. The brief points out that the principal difference in the corporate powers is that Philadelphia Electric Company has no power to sell electricity at retail in Maryland; a corporation under the jurisdiction of the Maryland Commission had to be used for that purpose. Philadelphia points out that this reason alone is sufficient for preserving the separate identities here.

Commission staff filed a brief supporting the exercise of jurisdiction by this Commission. Staff points out that the Commission's jurisdiction is established under Section 201 of the Federal Power Act, and its power to regulate rates pursuant to Section 205 and 206 of the act includes "the sale of electric energy at wholesale and in interstate commerce". Staff points out that there are two elements needed to establish Commission jurisdiction: a wholesale sale and energy generated a state outside the state in which the energy is consumed. Staff contends that an examination of the transactions here show that there is clearly a wholesale sale from Philadelphia Electric Company and Susquehanna Power Company to Conowingo.

Staff contends that Peoples Counsel's single entity theory should be rejected. The Commission has long asserted jurisdiction over transactions between affiliates. Staff points out that many times

corporations establish affiliates to conduct various parts of their operations. If the Commission were to adopt the approach suggested by Peoples Counsel it would become involved in difficult cases involving the most vexing of corporate issues according to staff.

Staff points out that the Commission's jurisdiction is plenary and extends to all wholesale sales of electricity in interstate commerce except those which Congress has explicitly made subject to regulation by the states. Staff states that following the proposal of the Peoples Counsel would inevitably lead the Commission into making case by case determinations of its jurisdiction, an approach that has been rejected in the past. Staff further points out that the charter obligations of a company are irrelevant in determining a question of jurisdiction. According to staff, jurisdiction attaches by virtue of a company's acts rather than its corporate charter.

Under the Federal Power Act the Federal Power Commission's jurisdiction is plenary and extends to all wholesale sales in interstate commerce except those which Congress has made explicitly subject to regulation by the states.¹ When this project was first conceived and approved it was clear to the Maryland Public Service Commission that power from the dam would have to be supplemented, or mixed, with conventional steam generated power from Pennsylvania.² The Supreme Court has stated:

The federal rate authority must apply to all electricity sold, despite the fact that it was made up of power transmitted across state lines as well as that produced locally. The impossibility of separating interstate from intrastate electricity consumed by each purchaser is patent. In such a case, federal rate jurisdiction must attach to each distributor's negotiated agreement with the seller irrespective of occasional and unpredictable use of nonjurisdictional intrastate power.³

The question of the Commission's jurisdiction over sales of mixed power generated by hydroelectric plants on the Susquehanna River and by steam generating plants has been dealt with in earlier cases.⁴ The Supreme Court there held that the Commission has complete authority to regulate all the commingled power flow. The Court stated that the Commission's power does not vary with the rise and fall of the Susquehanna River.⁵

The fact that the transactions involved here are between affiliated companies does not divest this Commission of jurisdiction.⁶ If this Commission were to ex-

¹ FPC v. Southern California Edison Company 376 US 205, 216 (1964).

² Susquehanna Power Company, 17 Maryland Public Service Commission Reports 22, 38-39 (1926).

³ United States v. Public Utilities Commission, 345 US 295, 317 (1953).

⁴ Pennsylvania Water and Power Company v. FPC 343 US 414 (1952).

⁵ Id at 420.

⁶ Harford Electric Light Company, 2 FPC 359, 365 (1941).

amine the corporate affiliations of every company that appeared before it we would effectively be going through a case by case approach in determining our jurisdiction. This is an approach that has been rejected in the past and we shall continue to reject it in this context.¹ Peoples Counsel has cited no reason for this Commission to go behind the corporate identities of the companies involved in this proceeding.

On September 16, 1976, Maryland Public Service Commission, Peoples Counsel and Congressman Bauman jointly filed a motion requesting further hearings in this proceeding. This motion states that these parties contemplated at the prehearing conference that a hearing would be held for the purpose of taking statements of position from the customers of Conowingo. On September 22, Philadelphia Electric Company filed a response opposing the request for further hearing. Philadelphia contends that the opinion or views of the customers of the Conowingo Power Company have no relevance whatsoever to the jurisdictional issue raised by the intervenors in this proceeding.

At the prehearing conference held on April 15, the Presiding Administrative Law Judge asked Peoples Counsel if they had any intention of challenging the rate filings. Peoples Counsel stated that they did not intend to challenge the rates as filed, but only intended to raise the jurisdictional issue. Peoples Counsel, the Maryland Public Service Commission, and Congressman Bauman have already been afforded adequate opportunity to present evidence as to the rate filings in this proceeding. On January 21, 1976, the Commission issued an order which approved the settlement agreement and terminated the proceeding. In response to petitions by Congressman Bauman and the office of Peoples Counsel the Commission reopened this proceeding and ordered a further hearing to determine whether or not the settlement rates are just and reasonable. The only issues raised at the hearing or on briefs were the jurisdictional issues discussed above. We do not feel that the public interest would be served by further prolonging these proceedings and reopening the record for further evidence. All the parties have had an adequate opportunity to be heard and to present evidence on all aspects of this case. We are fully satisfied that the rates provided for in the settlement agreement are just and reasonable.

After fully considering the arguments of all the parties herein, we are convinced that this Commission has jurisdiction. No evidence has been presented to alter this Commission's previous determinations that the rates set out in the settlement agreement are just and reasonable. Accordingly, the settlement rates will be approved and the intervenors' motion for a further hearing in this matter will be denied.

The Commission finds: (1) The proposed settlement in this proceeding is

¹ FPC v. Southern California Edison Company, supra Note 1, at 215.

just and reasonable and in the public interest and should be approved.

(2) The motion requesting a further hearing filed on September 16, 1976 by the intervenors in this proceeding should be denied.

The Commission orders: (A) The motion for further hearing in this proceeding filed on September 16, 1976, is denied.

(B) Consistent with the discussion herein the settlement agreement filed by Philadelphia on November 19, 1975 is accepted.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-33608 Filed 11-12-76; 8:45 am]

[Docket Nos. E-8882, ER76-381, ER76-687]

PUBLIC SERVICE COMPANY OF COLORADO

Order Approving Settlement Agreement

NOVEMBER 8, 1976.

On September 13, 1976, Public Service Company of Colorado (PSCC) filed a Stipulation and Agreement of Settlement (Stipulation) which, if approved by the Commission, would dispose of all issues raised in the above-captioned dockets. For the reasons set forth below, the Commission shall approve the Stipulation.

Proceedings in Docket No. E-8882 were initiated on July 1, 1974, when PSCC tendered for filing proposed increases in its rates for firm power service to its seven wholesale customers.¹ Based upon a twelve month test period ended March 31, 1974, the filing increased PSCC's annual revenues from jurisdictional service by \$943,834. By order issued August 30, 1974, the Commission accepted and suspended the proposed increase until September 2, 1974, when it was permitted to become effective, subject to refund.

On December 22, 1975, PSCC tendered for filing in Docket No. ER76-381 additional proposed increases in its wholesale rates for firm power service. This filing was designed to increase PSCC's revenues from jurisdictional service by \$7,684,261 annually, based upon a test year ended December 31, 1976. By order issued January 30, 1976, the Commission accepted and suspended the proposed increase until April 1, 1976, subject to refund, and consolidated proceedings in Docket Nos. E-8882 and ER76-381.

On May 14, 1976, PSCC tendered for filing in Docket No. ER76-687 a proposed rate schedule for service to the Town of Center, Colorado (Center). By order of June 11, 1976, the Commission accepted the proposed rate to become effective, subject to refund, upon initiation of service by PSCC to Center. Proceedings

¹ City of Aspen, Town of Lyons, Home Light & Power Company, City of Glenwood Springs, Colorado Ute Electric Association, Inc. Central Telephone & Utilities Corporation (Southern Colorado Power Division), and Intermountain Rural Electric Association, Colorado.

in this docket were consolidated with proceedings in Docket Nos. E-8882 and ER76-381.

The principal provisions of the proposed Stipulation are as follows:

(1) PSCC shall have no refund obligation for the period during which its rates filed in Docket No. E-8882 were effective, namely, September 2, 1974, through March 31, 1976.

(2) Within 30 days of the date when a Commission order approving the Stipulation becomes final and non-appealable, PSCC shall file amendments to the rate schedules at issue in Docket No. ER76-381² to reflect the settlement cost of service for that docket. Said amended rate schedules shall become effective as of April 1, 1976.

(3) With respect to Docket No. ER76-687, the settlement rate shall become effective as of the date PSCC initiates service to Center.³

(4) Refunds of all amounts collected since April 1, 1976, in excess of the settlement rate level shall be made to PSCC's customers with interest computed at the rate of nine percent per annum.

(5) The parties agree that PSCC's revised fuel cost adjustment clauses filed in Docket No. ER76-381 comply with Order No. 517 and Section 35.14 of the Commission's Regulations, and that said clauses shall remain in effect as filed.

(6) The provisions of the Stipulation shall not become effective unless the Commission issues an order, which becomes final and no longer subject to judicial review, approving the Stipulation in its entirety. In the event any conditions are attached to the Commission's order approving the Stipulation, PSCC or any other party to these proceedings shall have the right to withdraw from the Stipulation, whereupon it shall be of no force and effect.

(7) Neither PSCC, the Commission, the Commission's Staff, nor any other person shall be deemed to have approved any ratemaking principles underlying or supposed to underlie any of the rates or refunds provided for in the Stipulation.

In response to public notice of the filing of the Stipulation, issued September 27, 1976, Staff filed comments supporting the Stipulation and urging Commission approval thereof.

The Commission's review of the proposed Stipulation leads to the conclusion that it reflects a just and reasonable resolution of the issues raised in these dockets. Accordingly, the Stipulation shall be incorporated herein by reference, accepted and approved.

The Commission finds: Good cause exists to incorporate herein by reference, accept and approve the Stipulation and Agreement of Settlement filed with the Commission in this proceeding on September 13, 1976.

² PSCC's FPC Electric Rate Schedule Nos. 3, 6, 9, 11, 12, 13, 14 and 15.

³ At the time of filing of the Stipulation, PSCC contemplated that service to Center would commence about September 15, 1976.

The Commission orders: (A) The Stipulation and Agreement of Settlement filed with the Commission in this proceeding on September 13, 1976, is incorporated herein by reference, accepted and approved.

(B) Within 30 days after this order becomes final and non-appealable, PSCC shall file amended rate schedules to effectuate the provisions of the Stipulation.

(C) Concurrently with its filing of the amended rate schedules referred to in ordering paragraph (B), supra, PSCC shall make refunds to appropriate customers of all amounts collected in excess of the settlement rates provided for in the Stipulation and approved herein. Said refunds shall be made in accordance with the terms of the Stipulation, and shall bear interest at the rate of nine percent per annum.

(D) Within 15 days after refunds are made in accordance with ordering paragraph (C), supra, PSCC shall file a refund report with the Commission and shall serve a copy thereof upon all affected customers. Such report shall show monthly billing determinants and revenues under the proposed and settlement rates, the monthly interest computation, and a summary of all such information for the entire refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(E) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, the Staff or any other person or party affected by this order in any proceeding now pending or hereinafter instituted by or against PSCC or any other person or party.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33609 Filed 11-12-76;8:45 am]

[Docket No. RP77-6]

SEA ROBIN PIPELINE CO.

Proposed Changes in FPC Gas Tariff

NOVEMBER 9, 1976.

Take notice that Sea Robin Pipeline Company (Sea Robin), on October 29, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1 and Original Volume No. 2. The proposed changes are based on the twelve-month period ending June 30, 1976, as adjusted, and would increase jurisdictional revenues by \$6,745,772.

Sea Robin states that the revenue increase results from increases in several areas of Sea Robin's operations.

Copies of the filing have been served upon Sea Robin's jurisdictional customers and the Public Service Commission of the State of Louisiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33607 Filed 11-12-76;8:45 am]

[Docket Nos. RP76-53, RP76-60, (PGA77-1)]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Purchased Gas Cost Adjustment Rate Change

NOVEMBER 9, 1976.

Take notice that South Texas Natural Gas Gathering Company ("South Texas"), on November 1, 1976, tendered for filing with the Federal Power Commission its First Revised Exhibit A (First Revised PGA-1) superseding the Original Exhibit A to its Purchased Gas Cost Rate Adjustments Clause. The proposed change reflects an increase in South Texas' rate to Natural Gas Pipeline Company of America of 6.26 cents per Mcf. The proposed effective date is December 1, 1976.

Copies of the filing were served by South Texas upon its only affected customer, Natural Gas Pipeline Company of America.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33602 Filed 11-12-76;8:45 am]

[Docket No. E-7201]

SOUTHWESTERN POWER ADMINISTRATION

Extension of Time

NOVEMBER 9, 1976.

On November 1, 1976, Sam Rayburn Dam Electric Cooperative, Inc., filed a motion to extend the time for filing comments to the proposed rate increase, in the above-designated proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including December 13, 1976, within which time Sam Rayburn Dam Electric Cooperative, Inc., shall file comments in the above-designated proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33603 Filed 11-12-76;8:45 am]

SUPPLY-TECHNICAL ADVISORY TASK FORCE-SYNTHESIZED GASEOUS HY- DROCARBON FUELS

Meeting

In the matter of the meeting of the Supply-Technical Advisory Task Force-Synthesized Gaseous Hydrocarbon Fuels, Conference Room 5200, Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, December 8, 1976 9:30 a.m., Presiding: Mr. William J. McCabe, FPC Coordinating Representative and Secretary, National Gas Survey.

1. Call to order and introductory remarks—Mr. William J. McCabe.
2. Remarks by chairman and vice chairman—Dr. Alan G. Fletcher, Mr. Charles W. Margolf.
3. Review of task force draft report—Dr. Alan G. Fletcher.
4. Discussion of progress on the economic analysis—Dr. James Harri.
5. Review of draft sections on siting and environment—Mr. Charles W. Margolf.
6. Other business.
7. Adjournment—Mr. William J. McCabe.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the Committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33680 Filed 11-11-76;10:28 am]

[Docket No. RP77-4]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Petition for Advance Approval of Accounting and Rate Treatment of Research and Development Expenditures and Motion for Consolidation

NOVEMBER 8, 1976.

Take notice that on October 28, 1976, Tennessee Gas Pipeline Company, a Di-

vision of Tenneco Inc. (Tennessee), filed a petition requesting advance approval of accounting and rate treatment of research and development expenditures related to an experimental coal gasification facility.

Tennessee states that it is a participant in a project headed by Continental Oil Company which has been chosen by the U.S. Energy Research and Development Administration to develop an experimental coal gasification facility. Under the proposal for developing the facility, Tennessee states that it estimates its share of expenditures over the life of the project to be at least \$9 million. Tennessee requests advance approval of accounting and rate treatment of these expenditures.

Tennessee also requests consolidation of its petition with the petition which Natural Gas Pipeline Company of America (Natural) filed in Docket No. RP76-140. Tennessee states that Natural, another participant in the project, is requesting the same relief in its petition.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition.

Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-33622 Filed 11-12-76; 8:45 am]

[Docket No. ID-1800]

THOMAS A. GREENQUIST
Application

NOVEMBER 8, 1976.

Take notice that on October 29, 1976, Thomas A. Greenquist (Applicant) filed an application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following positions: President, Bangor Hydro-Electric Company, Public Utility; Director, Bangor Hydro-Electric Company, Public Utility; Director, Maine Yankee Atomic Power Company, Public Utility.

Bankor Hydro-Electric Company, 33 State Street, Bangor, Maine. Bangor Hydro, a Maine corporation, is an electric utility serving approximately 67,000 customers all within the state of Maine,

largely in the counties of Penobscot, Hancock, and Washington.

Maine Yankee Atomic Power Company, Edison Drive, Augusta, Maine. Maine Yankee owns and operates a pressurized water nuclear-powered electric generating plant at Wiscasset, Maine.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-33614 Filed 11-12-76; 8:45 am]

[Docket No. CP77-35]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

NOVEMBER 8, 1976.

Take notice that on October 26, 1976, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-35 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Elizabethtown Gas Company (Elizabethtown), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is presently transporting on an interruptible basis for Elizabethtown quantities of natural gas which Elizabethtown purchases from its production affiliate National Exploration Company (Exploration) in the McCaskill Field, Karnes County, Texas, and the Bancker Field, Vermilion Parish, Louisiana. Applicant further states that Exploration now has production in the Boggy Creek Field, Anderson County, Texas.

Applicant proposes to transport for Elizabethtown pursuant to an agreement dated March 23, 1976, the volumes Elizabethtown would purchase from Exploration which would be produced from the Boggy Creek Field, Anderson County, Texas.

It is stated that Elizabethtown would arrange to have the gas delivered to United Gas Pipe Line Company (United) and United, in turn, would deliver, or cause to be delivered, equivalent volumes (less quantities retained by United for

company use, lost and unaccounted for) to Applicant for the account of Elizabethtown at mutually agreeable existing exchange points between United and Applicant. Applicant would then deliver the gas to existing points of delivery to Elizabethtown in New Jersey it is said.

It is asserted that the proposed transportation of Boggy Creek Gas would assist Elizabethtown by making additional quantities available to help offset the curtailment it is experiencing under Applicant's Rate Schedule CD-3.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-33623 Filed 11-12-76; 8:45 am]

[Docket No. RP77-8-1]

UNITED GAS PIPE LINE CO.

Petition for Extraordinary Relief

NOVEMBER 10, 1976.

Public notice is hereby given that on October 29, 1976, Southland Oil Company (Southland) filed a petition pursuant to § 2.78(a)(ii) of the Commission's Rules and Regulations for extraordinary relief pendente lite and on a permanent basis from the curtailment plan of its supplier, United Gas Pipe Line Company (United). By its petition, Southland seeks an order directing

United to deliver to Southland's refinery at Lumberton, Mississippi the following volumes of natural gas in addition to Southland's entitlement under United's proposed permanent curtailment program: (1) 450 Mcf/d during the period November 1, 1976, through March 31, 1977; (2) 750 Mcf/d on a permanent basis during the 1977-78 winter season and all subsequent winter seasons; (3) 1,000 Mcf/d during the 1978 summer season and all subsequent summer seasons.

In an order issued on May 28, 1976, in Docket No. RP71-29 the Commission accepted and suspended a tariff filing made by United which proposed a permanent curtailment program for the United system. On October 27, 1976, United filed a motion to effectuate its tariff filing on November 1, 1976, pursuant to Section 4 (e) of the Natural Gas Act. Under United's proposed plan, Southland's entitlement is projected to be 300 Mcf/d during the 1976-77 winter, and 0 Mcf/d during the 1977-78 winter. During the 1977 summer, United is projecting the availability of sufficient supplies as to avoid curtailment of any of Southland's requirements. However, Southland states in its petition that the minimum natural gas requirement for the Lumberton plant in winter is 750 Mcf/d. If such volumes are not available, Southland asserts that it will be forced to close the plant.

Southland's petition states that Southland is a small independent refiner of crude oil and that it has a purchase contract with United for 1,000 Mcf/d on an annual basis. Southland asserts that it uses 89 percent of its natural gas in the processing and fractionation of crude oil; the remaining 11 percent is used as boiler fuel. However, Southland argues that the public interest requires the granting of its request for extraordinary relief since its refinery operation uses gas for high priority purposes and results in a net production of energy. Furthermore, Southland argues that its petition is consistent with the established national policy of protecting the viability of small, independent refiners.

Any person desiring to be heard or to protest Southland's filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before November 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33769 Filed 11-12-76; 8:45 am]

FEDERAL RESERVE SYSTEM

FIRST BANCORP, INC.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g) (3) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(g) (3)) ("the Act"), by First Bancorp, Inc., Corsicana, Texas, for a determination that First Bancorp, Inc. is not and will not be capable of controlling First Travel, Inc., Corsicana, Texas or the travel agency transferred by First Bancorp, Inc. to First Travel, Inc.

Notice is hereby given, that, pursuant to section 2(g) (3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than December 7, 1976. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the determination request.

Board of Governors of the Federal Reserve System, November 8, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-33650 Filed 11-12-76; 8:45 am]

FIRST SECURITY CORP.

Order Amending Divestiture Deadline

By Order dated July 30, 1976, the Board denied further extensions of time for divestiture by First Security Corporation, Salt Lake City, Utah ("FSC"), of First Security Savings and Loan Association, Pocatello, Idaho ("FSSL"), and determined not to process FSC's tendered application to retain FSSL pursuant to § 4(c) (8) of the Bank Holding Company Act. The Board's Order requires FSC to divest itself of any and all direct or indirect interest in and control over FSSL by no later than November 1, 1976, and to file a plan of divestiture with the Board by no later than September 15, 1976.¹

¹ By action of September 15, 1976, the Board directed FSC to file a plan of divestiture no later than two weeks subsequent to the date of Board action on the petition.

By letter dated August 25, 1976, and attachments thereto, supported by two Supplements (the most recent dated October 11, 1976), FSC has requested that the Board grant reconsideration of its July 30 Order. Pending Board action on the petition the Board believes it is appropriate to extend the deadline by which FSC is to divest itself of any and all direct or indirect interest in and control over FSSL. Accordingly, the date for final divestiture is hereby extended until such date as the Board may fix in its order on the petition for reconsideration.

By order of the Board of Governors,²
effective November 8, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-33651 Filed 11-12-76; 8:45 am]

LYONS BANKSHARES, INC.

Order Approving Formation of a Bank Holding Company

Lyons Bankshares, Inc., Lyons, Kansas, ("Applicant") has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)), to become a bank holding company through the acquisition of 80 per cent or more of the voting shares of The Chandler National Bank of Lyons, Lyons, Kansas, ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been duly published (41 FEDERAL REGISTER 37857). Time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a corporation recently formed for the purpose of becoming a bank holding company through the acquisition of Bank. Upon acquisition of Bank (deposits of \$4.9 million), Applicant would control the 415th largest bank in Kansas, holding .06 per cent of total deposits in commercial banks in the State.³ Bank is the fourth largest of ten banks operating in the relevant banking market, which is approximated by Rice County, and controls 10.47 per cent of total market deposits.

Principals of Applicant are principals with majority interests in five other one-bank holding companies throughout the State. In addition, these individuals own minority interests in two other banks and are officers and directors of these institutions. All but one of the banks in which these individuals are involved are located in separate banking markets.

² Voting for this action: Chairman Burns and Governors Gardner, Wallach, Jackson, Partee and Lilly. Absent and not voting: Governor Coldwell.

³ All banking data are as of December 31, 1975.

Farmers State Bank in Sterling, the subsidiary of Coronado, Inc., Sterling, Kansas, is located ten miles from Bank. It is the market's second largest bank with \$8.1 million deposits, representing a 17.49 percent market share. Since the proposal merely represents a restructuring of present ownership into corporate form, it does not appear that the acquisition would have an adverse effect on existing competition.

The financial and managerial resources and future prospects of Applicant, which are largely dependent upon those of Bank, are considered generally satisfactory and consistent with approval. Debt of approximately \$305,000 will be incurred by Applicant. However, the acquisition of Bank will have no significant adverse effect on the financial condition of either Applicant or Bank. Therefore, considerations relating to banking factors are regarded as being consistent with approval.

Consummation of the transaction would effect no changes in the banking services offered by Bank, and considerations relating to the convenience and needs of the community to be served are consistent with approval. It has been determined that consummation of the transaction would be consistent with the public interest and the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order or later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective November 9, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 76-33652 Filed 11-12-76; 8:45 am]

FEDERAL RESERVE SYSTEM
NATIONAL CENTRAL FINANCIAL CORP.
Order Approving Acquisition of Land
Mortgages, Inc.

National Central Financial Corporation, Lancaster, Pennsylvania, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c) (8) of the Act (12 U.S.C. 1843(c) (8)) and § 225.4(b) (2) of the Board's Regulation Y (12 CFR 225.4(b) (2)), to acquire, through its wholly-owned subsidiary Hartzler Mortgage Company, Columbus, Ohio ("Hartzler"), all of the mortgage servicing portfolio of Land Mortgages, Inc., Dayton, Ohio ("Company"), and to engage de novo, through Hartzler, in the activities of a mortgage banking company, in Dayton, Ohio by

converting an office of Company to a branch of Hartzler. From the branch office in Dayton, Applicant also proposes to engage in the activity of selling credit life, accident and health insurance that is directly related to extensions of credit by Hartzler. Each of the aforementioned activities has been determined by the Board to be closely related to banking (12 CFR 225.4(a) (1), (3) and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 32974 (1976)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the public interest factors set forth in section 4(c) (8) of the Act (12 U.S.C. 1843(c) (8)).

Applicant, the 11th largest banking organization in Pennsylvania, controls one bank (National Central Bank, Lancaster, Pennsylvania) with deposits of \$865.1 million, representing approximately 1.9 percent of the total deposits in commercial banks in the State.¹ Through its banking subsidiary, Applicant engages in residential mortgage lending as a part of its commercial banking business and, through nonbank subsidiaries, Applicant also engages in commercial finance, mortgage banking activities, and the selling and underwriting of credit related insurance.

Company (total assets of \$2.3 million) engages in the general business of mortgage banking, including originating, purchasing, selling, and servicing mortgage loans. Company (which currently operates two offices in Dayton) derives its mortgage servicing portfolio principally from Montgomery County, Ohio, which is located in the Cincinnati Regional Market.² During the period from 1971 to 1975, Company averaged approximately \$5.7 million in FHA and VA loan originations per year, and \$50.2 million in volume of mortgages serviced per year. As of December 31, 1975, Company's mortgage servicing portfolio was \$50 million.³ Hartzler (total assets of \$5.4 million) was acquired by Applicant in 1974,⁴ and maintains its headquarters in Columbus, Ohio, and a branch in Mansfield, Ohio. Hartzler's mortgage banking activities are mainly confined to the origination, sale and servicing of FHA and VA single family residential mortgages. As of December 31, 1975, Hartzler's total

mortgage servicing was \$121 million, and Hartzler ranked 242nd of the 300 largest mortgage banking companies in the United States.⁵ Upon consummation of this proposal, Hartzler would rank as the 170th largest mortgage banking company in the United States.

Applicant, through Hartzler, is considered to operate in a nationwide market for mortgage servicing business, while Company has limited its business primarily to the Cincinnati Regional Market. Despite Applicant's nationwide range in mortgage servicing business, it has not operated to any significant extent in the area served by Company. Therefore, it does not appear that any significant existing competition would be eliminated as a result of the consummation of this proposal.

Consummation of this proposal would eliminate the possibility of competition developing between Hartzler and Company in the future. However, such adverse competitive effects are mitigated by the large number of competitors in the relevant market, which includes several mortgage banking companies, savings and loan associations and commercial banking organizations. In addition, Company has recently scaled down its operations and, absent approval of this proposal, would not be likely to become a nationwide competitor in the field of mortgage servicing. Accordingly, the Board concludes that consummation of this proposal would not have significant adverse effects upon future competition. On the contrary, Applicant's acquisition of Company's mortgage service portfolio and conversion of one office of Company into a branch of Hartzler may enhance competition in the relevant market by increasing the efficiency and financial resources available to that branch. Applicant has also proposed, in connection with this application, that Hartzler's branch office in the relevant market sell credit-related insurance on the loans that it will originate therein. Due to the limited nature and scope of this permissible insurance activity, and the fact that it will be engaged in on a de novo basis in a new market, it does not appear that there would be any significant adverse effect upon either existing or potential competition as a result of Applicant's consummation of this transaction. It is the Board's judgment that the benefits that can reasonably be expected to result from this proposal lend some weight toward approval of the application.

There is no evidence in the record indicating that consummation of the proposed transaction would result in any concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects upon the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance

¹ All banking data are as of December 31, 1975, unless otherwise indicated.

² That market corresponds approximately to the Cincinnati Major Trading Area, as defined by Rand McNally, and includes the southwestern corner of Ohio, the southeastern tip of Indiana, and the northernmost tip of Kentucky.

³ Company's servicing portfolio consists almost entirely of FHA and VA guaranteed loans.

⁴ Applicant received Board approval, pursuant to section 4(c) (8) of the Act, to acquire Hartzler on June 5, 1974. [39 Federal Register 20729 (1974); 60 Federal Reserve Bulletin 524 (1974).]

⁵ American Banker, June 30, 1976.

⁶ Applicant plans to vacate the other office of Company in the market.

of the public interest factors the Board is required to consider under section 4(c) (8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Philadelphia.

By order of the Board of Governors,⁷ effective November 8, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-33530 Filed 11-12-76;8:45 am]

NORTHEAST UNITED BANCORP, INC. OF TEXAS

Amended Order

By Order dated January 19, 1976, (41 FEDERAL REGISTER 3782), the Board approved the application of Northeast United Bancorp, Inc. of Texas, Fort Worth, Texas, a bank holding company within the meaning of the Bank Holding Company Act, to acquire 100 percent of the voting shares (less directors' qualifying shares) of First State Bank, Bedford, Texas ("Bank"). Applicant has received and obtained two extensions of time within which to make the transactions accomplishing the acquisition of Bank's shares.

It now appears that Applicant may not be able to acquire all of the shares (less directors' qualifying shares) of Bank. Accordingly, Applicant has requested the Board to amend its Order to permit Applicant to acquire 75 percent or more of the voting shares of Bank rather than all of such shares.

The Board has considered Applicant's request and has concluded that the request should be granted. Accordingly, the Board's Order of January 19, 1976, is hereby amended to permit Applicant to acquire 75 percent or more of the voting shares of Bank.

By order of the Board of Governors,¹ effective November 5, 1976.

RICHARD D. ABRAHAMSON,
Assistant Secretary of the Board.

[FR Doc.76-33653 Filed 11-12-76;8:45 am]

¹ Voting for this action: Chairman Burns and Governors Gardner, Wallich, Jackson, Partee, and Lilly. Absent and not voting: Governor Coldwell.

⁷ Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell and Partee. Absent and not voting: Governors Jackson and Lilly.

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

"Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 5, November 30, 1976, from 10 am to 3:30 pm, Room 3506, John C. Kluczynski Federal Building, 230 So. Dearborn Street, Chicago, Illinois. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed new Federal Building, U.S. Courthouse, Madison, Wisconsin, and the proposed new Federal Building, U.S. Courthouse, East St. Louis, Illinois.

Frank and open discussion of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that is will be concerned with a matter listed in 5 U.S.C. 552(b) (5) the meeting will not be open to the public."

Dated: November 10, 1976.

FRANK RESNIK,
Regional Administrator.

[FR Doc.76-33674 Filed 11-12-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

APPLIED STATISTICS TRAINING INSTITUTE TASK FORCE (COOPERATIVE HEALTH STATISTICS ADVISORY COM- MITTEE)

Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of December 1976:

Name: Applied Statistics Training Institute Task Force (Cooperative Health Statistics Advisory Committee).

Date and time: December 6-7, 1976, 9 a.m.
Place: Parklawn Building, Room 8-06, 5600 Fishers Lane, Rockville, Maryland 20857.
Open the entire meeting.

Purpose: To review current and proposed Applied Statistics Training Institute (ASTI) program activities with regard to subject-matter courses scheduled to be given now and in the future. To provide consultation, advice and recommendations for program direction to the Cooperative Health Statistics Advisory Committee.

Agenda: The Task Force will review current Applied Statistics Training Institute activities; review coordination of National Center for Health Statistics training; review related training needs to the National Institute of Mental Health and the Bureau of Health Planning and Resources Development; discuss tentative plans and an agenda for workshop for the Applied Statistics Institute.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Walsh, Room 8-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1470.

Agenda items are subject to change as priorities dictate.

Dated: November 8, 1976.

JAMES A. WALSH,
Associate Administrator for
Operations and Management.

[FR Doc.76-33625 Filed 11-12-76;8:45 am]

NURSING RESEARCH AND EDUCATION ADVISORY COMMITTEES

Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of November 1976:

Name: Nursing Research and Education Advisory Committee.

Date and time: December 4-5, 1976, 9 a.m.

Place: Conference Room 6C-09, Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland 20014.

Open December 2, 9-9:30 a.m.

Closed for remainder of meeting.

Purpose: The committee is charged with the initial review of research grant applications in all areas of nursing education and practice, including studies of extended professional roles, model curricula, clinical investigations, historical research, and institutional research development and with surveying the status of research in nursing education and practice.

Agenda: Agenda items for the open portion of the meeting will cover opening remarks, and the discussion of administrative and staff reports. The remainder of the meeting will be closed to the public for the review of grant applications for National Research Service Awards submitted by nurses for predoctoral and postdoctoral research training in nursing and related biomedical and behavioral fields. The closing is in accordance with provisions set forth in section 552(b) (5) and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Doris Bloch, Room 6A-10, Federal Building, 9000 Rockville Pike, Bethesda, Maryland 20014, Telephone (301) 496-6955.

Agenda items are subject to change as priorities dictate.

Dated: November 9, 1976.

JAMES A. WALSH,
Associate Administrator for
Operations and Management.

[FR Doc. 76-33624 Filed 11-12-76; 8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION (PSRO)

Results of Poll of Physicians in State of North Carolina

On August 16, 1976, the Secretary of the Department of Health, Education,

and Welfare published in the FEDERAL REGISTER, (41 FR 34666) a notice in which he announced the conduct of a poll, in accordance with section 1152(g) of the Social Security Act (42 U.S.C. 1320c-1(g)), of all the doctors of medicine or osteopathy who are engaged in active practice in each Professional Standards Review Organization Area of the State of North Carolina to determine whether such physicians in each such area support a change from the present local Professional Standards Review Organization (PSRO) area designations, as stipulated in 42 CFR 101.37, to a single statewide PSRO area designation.

Such notice was also published in *The Dun Record*, *Wilson Times*, *Rocky Mount Telegram*, *Greenville Reflector*, *Durham Sun-Herald*, *Chapel Hill Newspaper*, *Raleigh Times*, *Raleigh News & Observer*, *Henderson Dispatch*, *Winston-Salem Journal*, *Winston-Salem Sentinel*, *Burlington Times News*, *Greensboro News Record*, *Highpoint Enterprise*, *Asheville Citizen Times*, *Spartanburg Journal Herald*, *Henderson Times-News*, *Statesville Reward & Landmark*, *Gastonia Gazette*, *Charlotte News Observer*, *Elizabeth City Advance*, *Goldsboro News Argus*, *Fayetteville Observer*, and the *Wilmington Star* on August 16, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in each PSRO area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in each area of the contents of the notice.

The notice indicated that each licensed doctor of medicine or osteopathy whom the Secretary determined to be engaged in the active practice of medicine or osteopathy in each of the PSRO areas would receive a ballot on which he should indicate whether he supported a change from the present local PSRO area designations to a single statewide PSRO area for the entire State of North Carolina. The notice also stated that any licensed doctor of medicine or osteopathy engaged in active practice in each of the PSRO areas who had not received a ballot by August 21, 1976, might request in writing a ballot from the Secretary of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. According to the notice, only those ballots postmarked no later than September 15, 1976, and returned in the stamped, self-addressed envelope provided to each individual doctor would be considered valid.

The notice further stated that should more than 50 percent of doctors responding to the poll within each of the PSRO areas respond in the affirmative to the question, "Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?", the Secretary would then proceed to establish the entire State of North Carolina as a single Profes-

sional Standards Review Organization area. If more than 50 percent of the eligible doctors responding to the poll in any one of the eight PSRO areas should indicate that they did not support a change in the present area designations, the Secretary would not designate

the entire State of North Carolina as a single statewide PSRO area.

The tabulation of the ballots took place in a proceeding open to the public at the Highway Building in Raleigh, North Carolina, on September 29, 1976. The results are as follows:

State	Yes; I support a change to a single statewide PSRO area designation	No; I do not support a change to a single statewide PSRO area designation	Invalid	Total counted
North Carolina—PSRO area:				
I.....	121	307	6	434
II.....	77	462	5	544
III.....	93	215	3	311
IV.....	179	464	14	657
V.....	103	185	3	291
VI.....	75	218	33	326
VII.....	46	743	13	802
VIII.....	98	238	13	349
Total.....	792	2,832	95	3,719

After reviewing the final tabulation of ballots from doctors of medicine or osteopathy in each of the PSRO areas in the State of North Carolina, the Secretary has determined, pursuant to 42 CFR 101.2a, that more than 50 percent of the doctors responding to the poll in eight of the eight PSRO areas indicated that they do not support a change from the present PSRO area designations to a single statewide PSRO area designation. Therefore, the Secretary will not designate the entire State of North Carolina as a single PSRO area.

If at least five doctors in any PSRO area in the State of North Carolina request in writing a recount in such area, postmarked on or before November 26, 1976, for purposes of obtaining a second tabulation of ballots, a recount will be conducted in a public proceeding. The results of the recount will be final.

Dated: November 3, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc. 76-33380 Filed 11-12-76; 8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION (PSRO)

PSRO AREA DESIGNATIONS

Results of Poll of Physicians in State of Louisiana

On August 16, 1976, the Secretary of the Department of Health, Education, and Welfare published in the FEDERAL REGISTER (41 FR 34666) a notice in which he announced the conduct of a poll, in accordance with Section 1152(g) of the Social Security Act (42 U.S.C. 1320c-1(g)), of all the doctors of medicine or osteopathy who are engaged in active practice in each Professional Standards Review Organization Area of the State of Louisiana to determine whether such physicians in each such area support a change from the present local Professional Standards Review Organization (PSRO) area designations, as stipulated

in 42 CFR 101.22 to a single statewide PSRO area designation.

Such notice was also published in the *Baton Rouge Advocate*, *Baton Rouge State-Times*, *New Orleans Record*, *New Orleans States-Item*, *New Orleans Times-Picayune*, *New Iberia Iberian*, *Lake Charles American Press*, *Beaumont Enterprise Journal*, *Alexandria Town Talk*, *Shreveport Times Journal*, *Monroe World*, *Monroe News Star*, and the *Lafayette Advertiser* on August 16, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in each PSRO area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in each area of the contents of the notice.

The notice indicated that each licensed doctor of medicine or osteopathy whom the Secretary determined to be engaged in the active practice of medicine or osteopathy in each of the PSRO areas would receive a ballot on which he should indicate whether he supported a change from the present local PSRO area designations to a single statewide PSRO area for the entire State of Louisiana. The notice also stated that any licensed doctor of medicine or osteopathy engaged in active practice in each of the PSRO areas who had not received a ballot by August 21, 1976, might request in writing a ballot from the Secretary of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. According to the notice, only those ballots postmarked no later than September 15, 1976, and returned in the stamped, self-addressed envelope provided to each individual doctor would be considered valid.

The notice further stated that should more than 50 percent of doctors responding to the poll within each of the PSRO areas respond in the affirmative to the question, "Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?", the Secretary would then proceed to establish the entire State

of Louisiana as a single Professional Standards Review Organization area. If more than 50 percent of the eligible doctors responding to the poll in any one of the four PSRO areas should indicate that they did not support a change in the present area designations, the Secretary would not designate the entire State

of Louisiana as a single statewide PSRO area.

The tabulation of the ballots took place in a proceeding open to the public at the Hilton Hotel in Baton Rouge, Louisiana on October 1, 1976. The results are as follows:

State	Yes; I support a change to a single statewide PSRO area designation	No; I do not support a change to a single statewide PSRO area designation	Invalid	Total counted
Louisiana—PSRO areas:				
I	199	301	44	544
II	154	125	45	324
III	182	117	31	330
IV	555	334	199	1,088
Total	1,090	877	319	2,286

After reviewing the final tabulation of ballots from doctors of medicine or osteopathy in each of the PSRO areas in the State of Louisiana, the Secretary has determined, pursuant to 42 CFR 101.2a, that more than 50 percent of the doctors responding to the poll in one of the four PSRO areas indicated that they do not support a change from the present PSRO area designations to a single statewide PSRO area designation. Therefore, the Secretary will not designate the entire State of Louisiana as a single PSRO area.

If at least five doctors in any PSRO area in the State of Louisiana request in writing a recount in such area, postmarked on or before November 26, 1976, for purposes of obtaining a second tabulation of ballots, a recount will be conducted in a public proceeding. The results of the recount will be final.

Dated: November 3, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76-33381 Filed 11-12-76;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION (PSRO)

Results of Poll of Physicians in State of Arizona

On August 16, 1976, the Secretary of the Department of Health, Education, and Welfare published in the FEDERAL REGISTER, (41 FR 34665) a notice in which he announced the conduct of a poll, in accordance with Section 1152(g) of the Social Security Act (42 U.S.C. 1320-1(g)), of all the doctors of medicine or osteopathy who are engaged in active practice in each Professional Standards Review Organization Area of the State of Arizona to determine whether such physicians in each such area support a change from the present local Professional Standards Review Organization (PSRO) area designations, as stipulated in 42 CFR 101.5, to a single statewide PSRO area designation.

Such notice was also published in the Arizona Sun, Prescott Courier, Phoenix Gazette-Republic, Mesa Tribune, Scottsdale Progress, Douglas Dispatch, Yuma Sun, Nogales Herald, and the Tempe News on August 16, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in each PSRO area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in each area of the contents of the notice.

The notice indicated that each licensed doctor of medicine or osteopathy whom the Secretary determined to be engaged in the active practice of medicine or osteopathy in each of the PSRO areas would receive a ballot on which he should indicate whether he supported a change from the present local PSRO area designations to a single statewide PSRO area for the entire State of Arizona. The notice also stated that any licensed doctor of medicine or osteopathy engaged in active practice in each of the PSRO areas who had not received a ballot by August 21, 1976, might request in writing a ballot from the Secretary of Health, Education, and Welfare, P.O. Box 1583, FDR Station, New York, New York 10022. According to the notice, only those ballots postmarked no later than September 15, 1976, and returned in the stamped, self-addressed envelope provided to each individual doctor would be considered valid.

The notice further stated that should more than 50 percent of doctors responding to the poll within each of the PSRO areas respond in the affirmative to the question, "Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?", the Secretary would then proceed to establish the entire State of Arizona as a single Professional Standards Review Organization area. If more than 50 percent of the eligible doctors responding to the poll in any one of the two PSRO areas should indicate that they did not support a change in the

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present area designations, the Secretary would not designate the entire State of Arizona as a single statewide PSRO area. The tabulation of the ballots took place

in a proceeding open to the public at the State Department of Health Services Building in Phoenix, Arizona, on October 8, 1976. The results are as follows:

State	Yes; I support a change to a single statewide PSRO area designation	No; I do not support a change to a single statewide PSRO area designation	Invalid	Total counted
Arizona—PSRO area:				
I.....	216	1,119	73	1,408
II.....	123	545	24	692
Total.....	339	1,664	97	2,100

After reviewing the final tabulation of ballots from doctors of medicine or osteopathy in each of the PSRO areas in the State of Arizona, the Secretary has determined, pursuant to 42 CFR 101.2a, that more than 50 percent of the doctors responding to the poll in both of the two PSRO areas indicated that they do not support a change from the present PSRO area designations to a single statewide PSRO area designation. Therefore, the Secretary will not designate the entire State of Arizona as a single PSRO area.

If at least five doctors in any PSRO area in the State of Arizona request in writing a recount in such area, postmarked on or before November 26, 1976, for purposes of obtaining a second tabulation of ballots, a recount will be conducted in a public proceeding. The results of the recount will be final.

Dated: November 3, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.
JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc. 76-33382 Filed 11-12-76; 8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION (PSRO)

Results of Poll of Physicians in State of Indiana

On August 16, 1976, the Secretary of the Department of Health, Education, and Welfare published in the FEDERAL REGISTER (41 FR 34665) a notice in which he announced the conduct of a poll, in accordance with Section 1152(g) of the Social Security Act (42 U.S.C. 1320c-1(g)), of all the doctors of medicine or osteopathy who are engaged in active practice in each Professional Standards Review Organization Area of the State of Indiana to determine whether such physicians in each such area support a change from the present local Professional Standards Review Organization (PSRO) area designations, as stipulated in 42 CFR 101.18, to a single statewide PSRO area designation.

Such notice was published in the Terre Haute Star Tribune, Evansville Press Courier, Vincennes Sun-Commercial, South Bend Tribune, Elkhart Truth, Kokomo Tribune, LaFayette Journal & Courier, Cincinnati Post, Indianapolis

News Star, Louisville Times, Louisville Courier-Journal, Bloomington Herald Telephone, Chicago Daily News, Chicago Sun-Times, Gary Post-Tribune, Hammond Times, Fort Wayne News-Sentinel, Fort Wayne Journal-Gazette, Auburn Star, Huntington Herald-Press, Muncie Star Press, Anderson Herald-Bulletin, Marion Chronicle-Tribune, Richmond Palladium-Item, and the Cincinnati Enquirer on August 16, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in each PSRO area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in each area of the contents of the notice.

The notice indicated that each licensed doctor of medicine or osteopathy whom the Secretary determined to be engaged in the active practice of medicine or osteopathy in each of the PSRO areas would receive a ballot on which he should indicate whether he supported a change from the present local PSRO area designations to a single statewide PSRO area for the entire State of Indiana. The notice also stated that any licensed doctor of medicine or osteopathy engaged in active practice in each of the PSRO areas who had not received a ballot by August 21, 1976, might request in writing a ballot from the Secretary of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. According to the notice, only those ballots postmarked no later than September 15, 1976, and returned in the stamped, self-addressed envelope provided to each individual doctor would be considered valid.

The notice further stated that should more than 50 percent of doctors responding to the poll within each of the PSRO areas respond in the affirmative to the question, "Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?", the Secretary would then proceed to establish the entire State of Indiana as a single Professional Standards Review Organization area. If more than 50 percent of the eligible doctors responding to the poll in any one of the seven PSRO areas should indicate

that they did not support a change in the present area designations, the Secretary would not designate the entire State of Indiana as a single statewide PSRO area.

The tabulation of the ballots took place in a proceeding open to the public at the Indianapolis Hilton in Indianapolis, Indiana, on October 6, 1976. The results are as follows:

State	Yes; I support a change to a single statewide PSRO area designation	No; I do not support a change to a single statewide PSRO area designation	Invalid	Total counted
Indiana—PSRO area:				
I.	70	366	11	447
II.	225	221	26	472
III.	99	174	16	289
IV.	92	158	30	280
V.	185	528	85	1,098
VI.	107	73	3	183
VII.	52	226	3	281
Total	1,130	1,746	174	3,050

After reviewing the final tabulation of ballots from doctors of medicine or osteopathy in each of the PSRO areas in the State of Indiana, the Secretary has determined, pursuant to 42 CFR 101.2a, that more than 50 percent of the doctors responding to the poll in five of the seven PSRO areas indicated that they do not support a change from the present PSRO area designations to a single statewide PSRO area designation. Therefore, the Secretary will not designate the entire State of Indiana as a single PSRO area.

If at least five doctors in any PSRO area in the State of Indiana request in writing a recount in such area, postmarked on or before November 26, 1976, for purposes of obtaining a second tabulation of ballots, a recount will be conducted in a public proceeding. The results of the recount will be final.

Dated: November 3, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.
JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc. 76-33383 Filed 11-12-76; 8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION (PSRO)

Results of Poll of Physicians in State of Virginia

On August 16, 1976, the Secretary of the Department of Health, Education, and Welfare published in the FEDERAL REGISTER, (41 FR 34666-34667) a notice in which he announced the conduct of a poll, in accordance with Section 1152(g) of the Social Security Act (42 U.S.C. 1320c-1(g)), of all the doctors of medicine or osteopathy who are engaged in active practice in each Professional Standards Review Organization Area of the State of Virginia to determine whether such physicians in each such area support a change from the present local Professional Standards Review Organization (PSRO) area designations, as stipulated in 42 CFR 101.52, to a single statewide PSRO area designation.

Such notice was also published in the Winchester Star, Stanton Leader, Char-

lottesville Progress, Fredericksburg Free Lance-Star, Washington Post, Washington Star, Northern Virginia Sun, Alexandria Gazette, Danville Bell Register, Bristol Virginia-Tennessee, Bristol Herald-Courier, Lynchburg News Advance, Roanoke Times, Roanoke World-News, Richmond News-Leader, Richmond Times-Dispatch, Petersburg Progress-Index, Newport News Press, Newport News Times-Herald, Norfolk Ledger-Star, and the Norfolk Virginian-Pilot on August 16, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in each PSRO area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in each area of the contents of the notice.

The notice indicated that each licensed doctor of medicine or osteopathy whom the Secretary determined to be engaged in the active practice of medicine or osteopathy in each of the PSRO areas would receive a ballot on which he should indicate whether he supported a change from the present local PSRO area designations to a single statewide PSRO area for the entire State of Virginia. The notice also stated that any licensed doctor of medicine or osteopathy engaged in active practice in each of the PSRO areas who had not received a ballot by August 21, 1976, might request in writing a ballot from the Secretary of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. According to the notice, only those ballots postmarked no later than September 15, 1976, and returned in the stamped, self-addressed envelope provided to each individual doctor would be considered valid.

The notice further stated that should more than 50 percent of doctors responding to the poll within each of the PSRO areas respond in the affirmative to the question, "Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?", the Secretary would then proceed to establish the entire State

of Virginia as a single Professional Standards Review Organization area. If more than 50 percent of the eligible doctors responding to the poll in any one of the five PSRO areas should indicate that they did not support a change in the present area designations, the Secretary

would not designate the entire State of Virginia as a single statewide PSRO area.

The tabulation of the ballots took place in a proceeding open to the public at City Hall in Richmond, Virginia, on September 27, 1976. The results are as follows:

State	Yes; I support a change to a single statewide PSRO area designation	No; I do not support a change to a single statewide PSRO area designation	Invalid	Total counted
Virginia—PSRO area:				
I	220	428	10	658
II	160	840	12	1,012
III	465	266	12	743
IV	426	315	23	764
V	228	570	12	810
Total	1,499	2,419	69	3,987

After reviewing the final tabulation of ballots from doctors of medicine or osteopathy in each of the PSRO areas in the State of Virginia, the Secretary has determined, pursuant to 42 CFR 101.2a, that more than 50 percent of the doctors responding to the poll in three of the five PSRO areas indicated that they do not support a change from the present PSRO area designations to a single statewide PSRO area designation. Therefore, the Secretary will not designate the entire State of Virginia as a single PSRO area.

If at least five doctors in any PSRO area in the State of Virginia request in writing a recount in such area, postmarked within on or before November 26, 1976, for purposes of obtaining a second tabulation of ballots, a recount will be conducted in a public proceeding. The results of the recount will be final.

Dated: November 3, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76-33384 Filed 11-12-76;8:45 am]

Office of Education
COMMUNITY EDUCATION ADVISORY
COUNCIL
Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-634, that the next meeting of the Community Education Advisory Council will be held December 1 and 2, 1976. The meeting will be held in Imperial II room of the Hotel Fontainebleau located at 4441 Collins Avenue, Miami Beach, Florida.

The Wednesday meeting will begin at 1 p.m. and recess at 5 p.m. This meeting will reconvene at 7:30 p.m. and end at 10 p.m. The Thursday meeting will begin at 3:30 p.m. and end at 5:30 p.m.

The Community Education Advisory Council is authorized under Pub. L. 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

The meeting of the Council will be open to the public.

The Community Education Advisory Council meeting will be held simultaneously with the National Community Education Association's 11th Annual Convention. The Council members will be attending various sessions sponsored by the National Community Education Association.

The proposed agenda includes:

- (1) Overview of the National Community Education Association's 11th Annual Convention.
- (2) Report from Federal Community Education Program Grantees and Review of Community Education Programs in the Area.
- (3) Schedule for Future Meetings.
- (4) Special Reports.
- (5) Induction of New Community Education Advisory Council Members.
- (6) Update on Evaluation.
- (7) Other Administrative Matters and Related Business.

Records shall be kept of all Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on November 5, 1976.

JULIE ENGLUND,
Director, Community
Education Program.

[FR Doc.76-33540 Filed 11-12-76;8:45 am]

DESEGREGATION OF PUBLIC
EDUCATION

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Title IV of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000c-2000c-9), applications for awards of assistance are being accepted from State educational agencies, institutions of higher education, and school boards under sections 403 (technical assistance), 404 (training institutes), and 405 (grants to school boards), respectively, of the Act.

Applications must be received by the Application Control Center of the U.S. Office of Education Regional Office serv-

ing the area in which the applicant is located on or before January 17, 1977.

A. Applications sent by mail. Applications sent by mail should be addressed to the appropriate U.S. Office of Education Regional Office listed below:

OFFICE OF EDUCATION REGIONAL OFFICES

Region I—(Boston)—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. U.S. Office of Education Application Control Center, Room 2803, John Fitzgerald Kennedy Federal Bldg., Government Center, Boston, Massachusetts 02203.

Region II—(New York City)—New York, New Jersey, Puerto Rico and Virgin Islands. U.S. Office of Education Application Control Center, Room 3947, Federal Bldg., 26 Federal Plaza, New York, New York 10007.

Region III—(Philadelphia)—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia. U.S. Office of Education Application Control Center, Room 16200, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101.

Region IV—(Atlanta)—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. U.S. Office of Education Application Control Center, Room 555, 50 Seventh Street NE, Atlanta, Georgia 30323.

Region V—(Chicago)—Illinois, Indiana, Minnesota, Michigan, Ohio and Wisconsin. U.S. Office of Education Application Control Center, 32nd Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

Region VI—(Dallas)—Arkansas, Louisiana, New Mexico, Oklahoma and Texas. U.S. Office of Education Application Control Center, Room 1440, 1200 Main Tower Bldg., Dallas, Texas 75202.

Region VII—(Kansas City)—Iowa, Kansas, Missouri and Nebraska. U.S. Office of Education Application Control Center, Room 360, 601 East 12th Street, Kansas City, Missouri 64106.

Region VIII—(Denver)—Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. U.S. Office of Education Application Control Center, Room 11037, Federal Office Bldg., 1961 Stout Street, Denver, Colorado 80202.

Region IX—(San Francisco)—Arizona, California, Hawaii, Nevada, American Samoa, Guam, and the Trust Territory of the Pacific Islands. U.S. Office of Education Application Control Center, Federal Office Building, Room 251, 50 United Nations Plaza, San Francisco, California 94102.

Region X—(Seattle)—Alaska, Idaho, Oregon, and Washington. U.S. Office of Education Application Control Center, Room 508, Arcade Plaza Bldg., M/S 1505, 1321 Second Avenue, Seattle, Washington 98101.

Applications sent by mail will be considered to have been received on time if:

(1) The application was sent to the appropriate regional office by registered or certified mail not later than January 12, 1977 as evidenced by the U.S. Postal Service Postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by the appropriate regional U.S. Office of Education mail room. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the appro-

appropriate U.S. Office of Education Regional Office.

B. Hand delivered applications. Hand delivered applications must be taken to the appropriate U.S. Office of Education Regional Office at the address listed in Part A of this notice. Hand delivered applications will be accepted daily between the hours of 8:30 a.m. and 4:00 p.m. local time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. local time on the closing date.

C. Application instructions and forms. Application instructions and forms may be obtained from the appropriate U.S. Office of Education Regional Office.

D. Program information. (1) Applications are solicited by this notice for the following programs:

(a) *Technical assistance arrangements with State educational agencies.* Under Subpart B of the program regulations a State educational agency may apply for a grant to provide technical assistance to any governmental unit responsible for operating public schools with respect to race desegregation, sex desegregation, or both race and sex desegregation. An applicant may also apply for a separate grant to provide technical assistance with respect to providing equal educational opportunity to non-English dominant minority group children.

It is anticipated that approximately \$7,425,000 will be made available for Subpart B grants dealing with race and sex desegregation, and that approximately \$1,250,000 will be made available to address the problems of non-English dominant minority group children. In FY 1976, a total of 61 awards in an average amount of \$109,033 were made under Subpart B; 55 of these awards were made to applicants which received assistance under the Act in FY 1975.

(b) *Training institutes.* Under Subpart D of the program regulations, an institution of higher education may apply for a grant to operate short-term or regular session training institutes for public school personnel dealing with problems occasioned by race desegregation, sex desegregation, or both race and sex desegregation.

It is anticipated that approximately \$4,455,000 will be made available for Subpart D grants, and that at least 10 grants will be for institutes dealing primarily with sex desegregation problems. In FY 1976, a total of 27 awards in an average amount of \$120,555 were made under Subpart D; 14 of these awards were made to applicants which received assistance under the Act in FY 1975.

(c) *Grants to school boards.* Under Subpart E of the program regulations, a school board may apply for a grant to employ an advisory specialist and in certain cases to provide in-service training with respect to problems incident to race desegregation, sex desegregation, or both race and sex desegregation.

It is anticipated that approximately \$2,970,000 will be made available for Subpart E grants. In FY 1976, a total of 47 awards in an average amount of \$46,708

were made under Subpart E; 28 of these awards were made to applicants who received assistance under the Act in FY 1975.

(2) At later date, proposals to operate general assistance centers as described in Subpart C of the program regulations will be solicited by publication of Requests for Proposals in the Commerce Business Daily. It is anticipated that approximately \$14,850,000 will be awarded for 27 contracts dealing with race and sex desegregation problems, and that approximately \$3,750,000 will be awarded for 9 contracts addressing the problems of non-English dominant minority group children under Subpart C. In FY 1976, a total of 36 awards in an average amount of \$412,510 were made under Subpart C; 34 of these awards were made to FY 1975 recipients of funds under the Act.

(3) Grant awards will be made pursuant to this notice for projects commencing no earlier than July 1, 1977 and terminating no later than June 30, 1978.

E. Applicable regulations. Grant awards made pursuant to this notice will be subject to the following regulations:

(1) Regulations relating only to program under Title IV of the Civil Rights Act of 1964 (45 Code of Federal Regulations, Part 180); and

(2) The Office of Education general provisions regulations (45 Code of Federal Regulations, Parts 100, 100a and appendices) except to the extent that these regulations are inconsistent with 45 CFR Part 180.

Dated: November 10, 1976.

(Catalog of Federal Domestic Assistance Number 13.405, Civil Rights Technical Assistance and Training Program.)

(42 U.S.C. 2000c—2000c-9.)

WILLIAM F. PIERCE,
Acting United States
Commissioner of Education.

[FR Doc.76-33586 Filed 11-12-76; 8:45 am]

EMERGENCY SCHOOL AID

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in the Emergency School Aid Act, Title VII of Pub. L. 92-318, as amended (20 U.S.C. 1601-1619) applications for assistance are being accepted from local educational agencies and from other public and nonprofit private organizations for basic grants under section 706(a) of the Act, pilot projects under section 706(b) of the Act, projects to be carried out by public or nonprofit private organizations under section 708(b) of the Act, and bilingual projects under section 708(c) of the Act.

Applications must be received by the Application Control Center of the U.S. Office of Education Regional Office serving the area in which the applicant is located on or before January 17, 1977.

A. Applications sent by mail. Applications sent by mail should be addressed to the appropriate U.S. Office of Education Regional Office listed below:

OFFICE OF EDUCATION REGIONAL OFFICES

Region I—(Boston)—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. U.S. Office of Education Application Control Center, Room 2803, John Fitzgerald Kennedy Federal Bldg., Government Center, Boston, Massachusetts 02203.

Region II—(New York City)—New York and New Jersey. U.S. Office of Education Application Control Center, Room 3947, Federal Bldg., 26 Federal Plaza, New York, New York 10007.

Region III—(Philadelphia)—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia. U.S. Office of Education Application Control Center, Room 16200, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101.

Region IV—(Atlanta)—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. U.S. Office of Education Application Control Center, Room 555, 50 Seventh Street N.E., Atlanta, Georgia 30323.

Region V—(Chicago)—Illinois, Indiana, Minnesota, Michigan, Ohio and Wisconsin. U.S. Office of Education Application Control Center, 32nd Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

Region VI—(Dallas)—Arkansas, Louisiana, New Mexico, Oklahoma and Texas. U.S. Office of Education Application Control Center, Room 1440, 1200 Main Tower Bldg., Dallas, Texas 75202.

Region VII—(Kansas City)—Iowa, Kansas, Missouri and Nebraska. U.S. Office of Education Application Control Center, Room 360, 601 East 12th Street, Kansas City, Missouri 64106.

Region VIII—(Denver)—Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. U.S. Office of Education Application Control Center, Room 11037, Federal Office Bldg., 1961 Stout Street, Denver, Colorado 80202.

Region IX—(San Francisco)—Arizona, California, Hawaii and Nevada. U.S. Office of Education Application Control Center, Federal Office Building, Room 251, 50 United Nations Plaza, San Francisco, California 94102.

Region X—(Seattle)—Alaska, Idaho, Oregon and Washington. U.S. Office of Education Application Control Center, Room 508, Arcade Plaza Bldg., M/S 1505, 1321 Second Avenue, Seattle, Washington 98101.

An application sent by mail will be considered to have been received on time if:

(1) The application was sent to the appropriate regional office by registered or certified mail not later than January 12, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by the appropriate regional office mail room. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail room or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the appropriate U.S. Office of Education Regional Office.

B. Hand delivered applications. Hand delivered applications must be taken to the appropriate U.S. Office of Education Regional Office at the address listed in Part A of this notice. Hand delivered ap-

plications will be accepted daily between the hours of 8:30 a.m. and 4:00 p.m. local time except Saturdays, Sundays and Federal holidays. Applications will not be accepted after 4:00 p.m. local time on the closing date.

C. Application instructions and forms. Application instructions and forms may be obtained from the appropriate U.S. Office of Education Regional Office.

D. Program information. (1) It is anticipated that the total amount of grant awards under Subparts B, C, F and G, respectively, of 45 CFR Part 185 will be approximately as follows: (a) Subpart B, basic grants to local educational agencies—\$137,600,000; (b) Subpart C, pilot projects for innovative and replicable programs—\$32,250,000; (c) Subpart F, bilingual grants to local educational agencies and nonprofit private organizations for children from environments in which a dominant language is other than English—\$8,600,000 and (d) Subpart G, grants to public and nonprofit private organizations—\$17,200,000. During the previous year's funding cycle, a total of 894 awards were made in the above categories.

(2) In last year's funding cycle:

(a) A total of 468 awards in an average amount of \$299,215 were made under Subpart B, basic grants; 333 of these awards were made to applicants which received assistance under Subpart B in the previous year's funding cycle.

(b) A total of 179 awards in an average amount of \$177,856 were made under Subpart C, pilot projects; 126 of these awards were made to applicants which received assistance under Subpart C in the previous year's funding cycle.

(c) A total of 32 awards in an average amount of \$275,531 were made under Subpart F, bilingual projects; 24 of these awards were made to applicants which received assistance under Subpart F in the previous year's funding cycle.

(d) A total of 215 awards in an average amount of \$79,988 were made under Subpart G, public and nonprofit private organization grants; 150 of these awards were made to applicants which received assistance under Subpart G in the previous year's funding cycle.

(3) Grant awards will be made pursuant to this notice for projects commencing no earlier than July 1, 1977, and terminating no later than June 30, 1978.

F. Resubmitted applications. Pursuant to sections 710(d) (2) and 710(e) of the Emergency School Aid Act (20 U.S.C. 1609(d) (2) and 1609(e)), the Commissioner of Education hereby gives notice that applications solicited by this notice which are returned to applicants for modification and resubmission at the applicants' option must be resubmitted to the appropriate U.S. Office of Education Regional Office on or before 4:00 p.m., local time, April 14, 1977. The receipt of resubmitted applications will be governed by the standards set out in Parts A and B of this notice.

G. Applicable regulations. Grant awards made pursuant to this notice will be subject to the following regulations:

(1) Regulations relating only to programs under the Emergency School Aid Act (45 Code of Federal Regulations, Part 185); and

(2) The Office of Education general provisions regulations (45 Code of Federal Regulations, Parts 100, 100a, and appendices) except to the extent that these regulations are inconsistent with 45 CFR Part 185.

Dated: November 10, 1976.

(Catalog of Federal Domestic Assistance numbers 13.525 (Basic Grants), 13.526 (Pilot Projects), 13.528 (Bilingual Projects), and 13.529 (Projects to be carried out by Public or Nonprofit Private Organizations).) (20 U.S.C. 1601-1619.)

WILLIAM F. PIERCE,
Acting United States
Commissioner of Education.

[FR Doc.76-33585 Filed 11-12-76;8:45 am]

Office of the Secretary
**REVIEW PANEL ON NEW DRUG
REGULATION**
Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Review Panel on New Drug Regulation, established pursuant to 42 USC 217a, by the Secretary of Health, Education, and Welfare, on February 21, 1975, will meet on Sunday, November 28, 1976, at 5:30 p.m. and on Monday, November 29, 1976, at 8:30 a.m. in Room 5051 of the Department of Health, Education, and Welfare's North Building, 330 Independence Avenue, S.W., Washington, D.C. The Review Panel will consider matters pertaining to its study of existing policies and procedures for the regulation of new drugs by the Food and Drug Administration. The meeting is open to the public.

Further information on the Review Panel may be obtained from John D. Rust, Executive Secretary, Review Panel on New Drug Regulation, Room 3510, HEW North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 472-3000.

JOHN D. RUST,
Executive Secretary, Review
Panel on New Drug Regulation.

NOVEMBER 4, 1976.

[FR Doc.76-33578 Filed 11-12-76;8:45 am]

DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs

**CACHE CREEK RANCHERIA IN CALI-
FORNIA AND INDIVIDUAL MEMBERS
THEREOF**

**Termination of Federal Supervision Over
Property: Correction**

OCTOBER 20, 1976.

This notice is published in the exercise of authority delegated by the Secretary

of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

On June 26, 1959, "A Plan for the Distribution of the Assets of the Cache Creek Rancheria according to the provisions of Pub. L. 85-671, August 18, 1958", was approved by H. Rex Lee, Acting Commissioner of Indian Affairs, and accepted by the distributees in a referendum held at the Sacramento Area Office, Bureau of Indian Affairs, Sacramento, California, on July 15, 1959. Notice of the termination of the Federal trust relationship over the Cache Creek Rancheria in Lake County, California, in accordance with that Plan was executed April 4, 1961, by Stewart L. Udall, Secretary of the Interior, and published in the FEDERAL REGISTER of April 11, 1961, on page 3073 (26 FR 3073). The name of Marshall C. McKay as a dependent member of the immediate family of Charlie McKay, a distributee, appeared on the list of persons affected by the termination action and such appearance has hampered the said Marshall C. McKay in the exercise of his civil rights.

Notice is hereby given that the name of Marshall C. McKay is hereby stricken from "A Plan for the Distribution of the Assets of the Cache Creek Rancheria according to the provisions of Pub. L. 85-671, August 18, 1958", nor shall said name appear in any of the official Federal documents relating to the termination of Federal supervision over the affairs and assets of the Cache Creek Rancheria.

THEODORE C. KRENZKE,
Acting Deputy Commissioner
of Indian Affairs.

[FR Doc.76-33543 Filed 11-12-76;8:45 am]

Bureau of Land Management
[NM 29066, 29067 and 29068]
NEW MEXICO
Applications

NOVEMBER 4, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for three 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 3, S $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 12, E $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 30 N., R. 9 W.,
Sec. 11, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 21, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 23, SE $\frac{1}{4}$ NW $\frac{1}{4}$.

These pipelines will convey natural gas across 1.709 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 76-33544 Filed 11-12-76; 8:45 am]

**Bureau of Mines
ADVISORY COMMITTEE ON COAL MINE
SAFETY RESEARCH
Meeting**

Notice is hereby given in accordance with Pub. L. 92-463 that the Fifth meeting of the Advisory Committee on Coal Mine Safety Research will be held on December 6-7, 1976, commencing at 9:00 a.m. at the Bureau of Mines Columbia Plaza Office Building, Room 1042, 2401 E Street, NW, Washington, D.C.

The Committee was established to consult with and make recommendations to the Secretary of the Interior on matters involving or relating to coal mine safety research. The purpose of the meeting is to prepare the Committee's Annual Report to the Secretary of the Interior. The meeting is open to the public; however, space will be provided for ten persons other than committee members. The agenda is set forth below.

Further information concerning this meeting may be obtained from Rolland R. Reid, Deputy Assistant Secretary—Minerals, Department of the Interior, 19th and C Streets, NW., Washington, D.C. 20240, telephone: (202) 343-4881. Transcripts of the meeting will be available for public inspection three weeks after the meeting upon written request addressed to the official above.

Dated: November 9, 1976.

THOMAS V. FALKIE,
Director, Bureau of Mines.

AGENDA

ADVISORY COMMITTEE ON COAL MINE SAFETY RESEARCH COLUMBIA PLAZA OFFICE BUILDING 2401 E STREET, N.W., WASHINGTON, D.C.

AGENDA—DECEMBER 6, 1976

- 9:00 a.m.—Subcommittee Report on Fiscal Year 1978 Budget Allocations and Committee Input to Fiscal Year 1979 Programs.
- 10:15 a.m.—Break.
- 10:30 a.m.—Discussion and Preparation of Annual Report.
- 12:00 noon—Lunch.
- 1:15 p.m.—Committee Meeting as Task Groups to Construct Individual Sections of Annual Report.
- 5:00 p.m.—Adjourn.

AGENDA—DECEMBER 7, 1976

- 8:30 a.m.—Discussion of Write-ups of Various Portions of Annual Report.
- 10:15 a.m.—Break.
- 10:30 a.m.—Continue Discussions.
- 12:00 noon—Lunch.

1:15 p.m.—Discussion with Representatives of Interior and Continuation of Annual Report Preparation.
4:00 p.m.—Adjourn.

Room for 10 persons other than committee members.

[FR Doc. 76-33555 Filed 11-12-76; 8:45 am]

**U.S. Fish and Wildlife Service
TAKING OF GOLDEN EAGLES
Denial of Depredation Control Order**

Notice is hereby given that the following application for a depredation control order was denied.

On September 16, 1976, the U.S. Fish and Wildlife Service received a request from the Honorable Dolph Briscoe, Governor of Texas, for a depredation control order for the purpose of taking golden eagles. This request was submitted pursuant to § 22.31 of Title 50, Code of Federal Regulations, which provides:

(a) Whenever the Governor of any State requests permission to take golden eagles to seasonally protect domesticated flocks and herds in such State, the Director shall make an investigation and if he determines that such taking is necessary to and will seasonally protect domesticated flocks and herds in such States he shall authorize such taking in whatever part or parts of the State and for such periods as he determines necessary to protect such interests.

(b) Requests from the Governor of a State to take golden eagles to seasonally protect domesticated flocks and herds must be submitted in writing to the Director listing the periods of time during which the taking of such birds is recommended, and including a map of the State indicating the boundaries of the proposed area of taking. Such requests should include a statement of the facts and the source of such facts that in the Governor's opinion justifies the request. After a decision by the Director, the Governor will be advised in writing concerning the request and a notice will be published in the FEDERAL REGISTER.

Published herewith is Governor Briscoe's request and the Director's decision. In denying the application for a depredation control order, the Director has relied on the March 5, 1970, order of then Secretary Walter J. Hickel which "halt[ed] the issuance of 'blanket' permits for the taking of golden eagles for relief from depredations . . ." The memorandum of that order, which is still in effect, reads as follows:

MEMORANDUM

To: Director, Bureau of Sport Fisheries and Wildlife
From: Secretary of the Interior
Subject: Golden Eagle Protection

The several staff papers, studies, and reports relating to the question of controlling golden eagles to prevent livestock depredations have been studied very carefully.

The Act of June 8, 1940, 54 Stat. 250, as amended, makes provisions for protection of the golden eagle. The Act also makes provision for the taking of birds when there is a determination that serious depredations are occurring to the livestock industry. Such taking may be as a result of a request by a Governor for a "blanket" permit for taking in specified areas for specified times or as a result of a request by an individual farmer or

rancher.

The studies referred to indicate that depredations are not widespread and that they do not threaten either the local economies or the livestock industry generally. To undertake unrestricted golden eagle control under these circumstances would inordinately diminish the golden eagle population which the Secretary is charged with the duty of protecting.

I conclude, therefore, that the responsibility for protecting golden eagles outweighs the need for controlling eagles in order to alleviate local depredations, except in the most critical circumstances.

You are hereby instructed to take such steps as are necessary to halt the issuance of "blanket" permits for the taking of golden eagles for relief from depredations, effective upon receipt of this memorandum.

In processing applications from the Governors of the several western States, you are instructed to make a detailed investigation into the question of economic hardship and to exercise the most careful judgment regarding the question of whether or not the situation is so critical that extraordinary measures must be taken for the protection of any particular domesticated flock or herd in said States. "Blanket" permits as such will no longer be issued. This action is not intended to preclude the issuance of necessary permits for scientific exhibition, or religious purposes, or the issuance of individual permits where, after investigation and report to me, I conclude that such individual permit is necessary.

To restrict the issuance of permits to kill golden eagles does not in any way completely remove Department and Bureau responsibilities for depredations caused by eagles. You are expected, therefore, to increase your efforts to find ways and means of repelling or discouraging attacks by golden eagles and to encourage the Wool Growers and others to adopt these and other methods that will minimize the potential for eagle depredations.

SECRETARY OF THE INTERIOR.

Relying, as the March 5, 1970, order does, on scientific knowledge about the behavior of eagles, there is no cause to reconsider the said order unless data are presented demonstrating the fallacy of currently accepted knowledge on the behavior of eagles or demonstrating a change in the actual behavior patterns of golden eagles. No such data have been submitted.

Furthermore, Governor Briscoe's request plainly states that it was made at the instance of the Texas Sheep and Goat Raiser's Association because "it would be desirable for ranchmen to begin taking eagles at least . . . a month prior to lambing season." (Emphasis added). Therefore, the request on its face raises no suggestion whatsoever of any "critical circumstances" requiring further investigation into the question of economic hardship.

In addition to the total lack of any scientific justification for the issuance of this depredation control order, the Director notes that, although notice and opportunity for public comment need not be provided in considering the merits of depredation control order applications, the public has volunteered comments on this proposal, and that these comments are among the most vehemently and bitterly critical comments ever received

by the Service with respect to action under consideration.

To date, one hundred twenty-nine comments have been received, including one hundred eleven letters and telegrams and eighteen postcards. Of these, only one favored granting the order; that letter offered no data to support its position.

The one hundred twenty-seven comments opposed to granting the application carried no fewer than five hundred eighty-two signatures and represented no fewer than twelve organizations, including the Sierra Club, a local Texas chapter of the Sierra Club, five local Texas Audubon societies, four other conservation clubs, and the Baylor University Institute of Environmental Studies. Nineteen citizens or organizations demanded an environmental impact statement and/or public hearings; sixteen of those demanded both an EIS and hearings. The vast majority of these comments challenged the request as benefiting only a special interest group which, many comments asserted, is acting on prejudice and ignorance. Many citizens further challenged the existence of any scientific basis for assuming that any benefit would in fact result. Several scientists offered data indicating against the advisability of granting the request and supporting the continuance in force on Secretary Hickel's order of March 5, 1970. Also, several sheep ranchers questioned the merit of this request.

Accordingly, the request by the Governor of the State of Texas for issuance of a Depredation Control Order under § 22.31 of Title 50, Code of Federal Regulations, is denied as set out in the Director's decision dated October 19, 1976, and published below. This Notice is promulgated pursuant to the authority of the Bald Eagle Protection Act, as amended, 16 U.S.C. 668(a), as implemented by 50 CFR 22.31.

Dated: November 8, 1976.

LOREN K. PARCHER,
Acting Chief, Division of Law
Enforcement, U.S. Fish and
Wildlife Service.

STATE OF TEXAS,
Austin, September 10, 1976.
OFFICE OF THE GOVERNOR,

MR. LYNN A. GREENWALT,
Director of the U.S. Fish & Wildlife Service,
Department of the Interior, 18th and C
NW., Washington, D.C. 20240.

DEAR MR. GREENWALT: I have been requested by the Executive Secretary of the Texas Sheep and Goat Raisers' Association to seek permission for the taking of golden eagles to seasonally protect livestock in several Texas counties, under the terms of CFR Title 50, Sub-Part D-2231.

According to this request, eagles are being sighted at the present time in increasing numbers and it would be desirable for ranchmen to begin taking eagles at least once a month prior to lambing season before the number of the birds becomes excessive.

Therefore, I herewith request that any rancher or group of ranchers be authorized to take golden eagles by any means or meth-

ods, under the terms of this law, in the following Texas counties:

Jeff Davis
Brewster
Val Verde
Uvalde
Kerr
Edwards
Crockett
Kinney
Bandera
Kimble
Sutton
Pecos
Culberson
Real
Irion
Tom Green

Coke
Schleicher
Crane
Burnet
McCullough
Upton
Hudspeth
Presidio
Terrell
Sterling
Glasscock
Reagan
Blanco
San Saba
Menard

I would appreciate early consideration of this request.

Sincerely yours,

DOLPH BRISCOE,
Governor of Texas.

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, D.C., September 27, 1976.

The Hon. DOLPH BRISCOE,
Governor,
State of Texas,
Austin, Texas

DEAR GOVERNOR BRISCOE: This acknowledges receipt of your request to take golden eagles by any means or methods for the purpose of protecting sheep and goat herds.

We have requested our Regional Director in Albuquerque to conduct an appropriate investigation as required by section 22.31, Title 50 Code of Federal Regulations. U.S. Fish and Wildlife representatives will be in contact with personnel of the Texas Parks and Wildlife Department, concerning this matter.

We will advise you of our findings as soon as possible.

Sincerely yours,

WALTER R. MCALLESTER,
Acting Associate Director.

STATE OF TEXAS,
OFFICE OF THE GOVERNOR,
Austin, September 30, 1976.

MR. LYNN A. GREENWALT,
Director of the U.S. Fish & Wildlife Service,
Department of the Interior, 18th and C NW.,
Washington, D.C. 20240

DEAR MR. GREENWALT: I have discovered a typographical error in my letter to you of September 10, 1976, a copy of which is enclosed. The second paragraph of the letter should have read:

According to this request, eagles are being sighted at the present time in increasing numbers and it would be desirable for ranchmen to begin taking eagles at least a month prior to lambing season before the number of the birds becomes excessive.

Additionally, I wish to inform you that the upcoming lambing season runs from the middle of October to May 1.

Again, I would appreciate early consideration of this request.

Sincerely yours,

DOLPH BRISCOE,
Governor of Texas.

[WESTERN UNION MAILGRAM]

Austin, Texas, October 13, 1976.

HONORABLE THOMAS KLEPPE,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: Respectfully request a meeting between you and representatives of our sheep and goat industry of Texas at a time and place convenient to your schedule

but before a decision is made by you on my request concerning golden eagles in certain Texas counties. Imperative this meeting be with you personally.

Your favorable response to this request would be greatly appreciated.

DOLPH BRISCOE,
Governor of Texas.

Copy

October 20, 1976.

From Dept of Interior
Govt PD

HON. DOLPH BRISCOE,
Governor of Texas,
Austin, Texas.

Re your mailgram of Oct. 13 concerning taking of golden eagles. Under Sec. Kent Frizzell met with sheep and goat raisers' assoc. in Ozona, Tex. Oct. 6. Decision on your request was made by Dir. Lynn A. Greenwalt, FWS, on Oct. 19. If after review of his decision, you believe further info should be considered, Sec. Kleppe will be willing to meet with you personally to discuss this matter.

LOREN J. RIVARD,
Exec Asst to the Secretary.

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, D.C., October 19, 1976.

HON. DOLPH BRISCOE,
Governor of Texas,
Austin, Texas.

DEAR GOVERNOR BRISCOE: This is in further response to your letters of September 10 and September 30, 1976, requesting authority to take golden eagles for the protection of livestock in 31 Texas counties.

On March 5, 1970, then Secretary Walter J. Hickel instructed this Service to halt the issuance of "blanket" permits for the taking of golden eagles for relief from depredations. This order is still in effect. The directive does not preclude the issuance of individual permits where, after thorough investigation, the Secretary concludes that an individual permit is necessary.

Provisions for individuals to apply for permits to take depredating eagles are found in § 22.23, Title 50, Code of Federal Regulations, a copy of which is enclosed. Personnel of this Service are available to investigate expeditiously such applications and to recommend action to alleviate losses in a manner which will be in concert with our responsibility toward protection of the eagle resource.

Applications for individual permits should be forwarded to our Special Agent-in-Charge, Division of Law Enforcement, P.O. Box 329, Albuquerque, New Mexico 87103.

Sincerely yours,

LYNN A. GREENWALT,
Director.

[FR Doc.76-33525 Filed 11-12-76;8:45 am]

National Park Service

[Order No. 5, Amdt. No. 4]

ASSOCIATE REGIONAL DIRECTOR, ADMINISTRATION

Delegation of Authority

Southwest Region Order No. 5, approved March 22, 1972, and published in the FEDERAL REGISTER of April 19, 1972 (37 FR 7722), as amended, is hereby amended to read as follows:

SECTION 2. Delegation.

(f) Associate Regional Director, Administration. The Associate Regional Director, Administration, is authorized to

approve the use of a Government-owned or leased motor vehicle between domicile and place of employment. This authority may not be redelegated.

(National Park Service Order No. 77 (38 FR 7478), as amended.)

Dated: August 25, 1976.

JOSEPH C. RUMBURG, Jr.,
Regional Director,
Southwest Region.

[FR Doc. 76-33593 Filed 11-12-76; 8:45 am]

[Order No. 3, Amend. 3]

SUPERINTENDENTS, ET AL., PACIFIC NORTHWEST REGION

Delegation of Authority

Pacific Northwest Region Order No. 3, approved March 6, 1972, and published in the FEDERAL REGISTER of March 28, 1972 (37 FR 6325), is amended as follows:

Section 2, paragraph (e), is hereby amended as follows:

(e) Supervisory Procurement Agent—The Regional Supervisory Procurement Agent may execute and approve purchase orders and contracts not in excess of \$50,000.

(National Park Service Order No. 77, 38 FR 7478, published March 22, 1973, as amended.)

Dated: August 23, 1976.

JAMES B. THOMPSON,
Acting Regional Director,
Pacific Northwest Region.

[FR Doc. 76-33592 Filed 11-12-76; 8:45 am]

[Order No. 5, Amdt. 5]

SUPERINTENDENTS, ET AL., SOUTHEAST REGION

Delegation of Authority

Southeast Region Order No. 5, approved March 17, 1972, and published in the FEDERAL REGISTER April 19, 1972, (37 FR 7721) as amended, sets forth in Section 1 limitations on redelegations of contracting and procurement authority. This amendment changes Section 1, paragraph (h) and Section 2, paragraphs (a) and (f) to read as follows:

Section 1 (h): Authority to execute, approve, and administer contracts and to issue purchase orders for equipment, supplies, and services as follows:

(1) Superintendents, Blue Ridge Parkway, Everglades, and Great Smoky Mountains—not to exceed \$500,000,

(2) Superintendent, Natchez Trace Parkway—not to exceed \$200,000,

(3) Superintendents, Cape Hatteras, Gulf Islands, and Manmouth Cave—not to exceed \$100,000;

(4) Superintendents, Chickamauga and Chattanooga, Cumberland Gap, and Cumberland Island—not to exceed \$50,000;

(5) All other superintendents—not to exceed \$10,000.

The limitations in this paragraph (h) apply only to open market or non-man-

datory sources of supply. Each office may continue to issue orders to GSA centers and sources under established Federal Supply Schedules of Contracts in amounts exceeding \$2,000.

SECTION 2. Delegation.

(a) Associate Regional Director, Administration. The Associate Regional Director, Administration, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, Southeast Region, except authority relating to land acquisition as hereinafter delegated to Chief, Land Acquisition Division.

The Associate Regional Director, Administration, is also authorized to approve the use of government-owned or leased motor vehicles between domicile and place of employment. This authority may not be redelegated.

(f) Chief, Land Acquisition Division. The Chief, Land Acquisition Division, is authorized to:

(1) Approve and accept offers to sell to or exchange with the United States lands or interests in lands and to execute all necessary agreements and conveyances incident thereto.

(2) Accept deeds conveying to the United States lands or interests in lands.

(3) Approve on behalf of the National Park Service offers of settlement in condemnation cases.

(4) Approve claims for reimbursement under Pub. L. 71-646.

(National Park Service Order No. 77, 38 FR 7478, published March 22, 1973, as amended.)

Dated: September 23, 1976.

DAVID D. THOMPSON, Jr.,
Regional Director,
Southeast Region.

[FR Doc. 76-33594 Filed 11-12-76; 8:45 am]

[Order No. 7, Amdt. 4]

SUPERINTENDENTS, ET AL., WESTERN REGION

Delegation of Authority

Western Regional Order No. 7, approved March 3, 1972, and published in the FEDERAL REGISTER of March 28, 1972, (37 FR 6326), and Amendment No. 1, approved March 5, 1974, and published in the FEDERAL REGISTER of April 18, 1974, (39 FR 13903), and Amendment No. 2, published in the FEDERAL REGISTER of May 5, 1975, (40 FR 19508) and Amendment No. 3, published in the FEDERAL REGISTER of May 14, 1976, (41 FR 19993), is hereby amended.

Section 1, Paragraph (h) is amended and Section 2, Paragraph (j) is added to read as follows:

SECTION 1 * * *

(h) (1) Superintendents, Grade GS-12 and below in excess of \$10,000.

SECTION 2 * * *

(j) Associate Regional Director, Administration, Western Regional Office, may approve the use of a Government-

owned or leased motor vehicle between domicile and place of employment. This authority may not be redelegated.

(NPS Order No. 77, 38 FR 7478 published March 22, 1973, as amended.)

Dated: September 8, 1976.

HOWARD H. CHAPMAN,
Regional Director,
Western Regional Office.

[FR Doc. 76-33595 Filed 11-12-76; 8:45 am]

INTERNATIONAL TRADE COMMISSION

[337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

Notice Concerning Commission Action

Notice is hereby given that—

(1) On August 31, 1976, the Commission investigative attorney filed a motion to designate this investigation as a more complicated investigation pursuant to section 337(b)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1337(b)(1)), and § 210.15 of the Commission's rules of practice and procedure, as amended (41 FR 17710, April 27, 1976). The motion was docketed by the Office of the Secretary as motion No. 23-25. On September 13, 1976, the complainants in this investigation filed a memorandum in support of the motion of the Commission investigative attorney; the respondents in this investigation filed no answer to the motion. On September 23, 1976, the presiding officer in this investigation filed a recommended ruling that the Commission grant motion No. 23-25 and designate this investigation as a more complicated investigation.

(2) The Commission hereby grants motion No. 23-25 and designates this investigation as a more complicated investigation, to be concluded not later than October 1, 1977, 18 months after the date of publication in the FEDERAL REGISTER of the Notice of Investigation (41 FR 14014, April 1, 1976).

(3) Section 210.15 of the Commission's Rules of Practice and Procedure, as amended, provides the criteria requisite for designating an investigation as a more complicated investigation. The Commission concurs with the opinion of the presiding officer that the complex anti-trust allegations and defenses, the complex and lengthy discovery involved, or the number of parties involved in this investigation provides sufficient good reason for designating this investigation as a more complicated investigation.

Issued: November 10, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 76-33667 Filed 11-12-76; 8:45 am]

LEGAL SERVICES CORPORATION

SOUTHERN NEW MEXICO LEGAL SERVICES AND HUMBOLDT LEGAL SERVICES FOUNDATION

Grants and Contracts

NOVEMBER 9, 1976.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-29961. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Southern New Mexico Legal Services, Roswell, New Mexico.
2. Humboldt Legal Services Foundation, Eureka, California.

Additional information may be obtained by writing the Legal Services Corporation, 733 Fifteenth Street, N.W., Suite 700, Washington, D.C. 20005.

THOMAS EHRLICH,
President.

[FR Doc.76-33573 Filed 11-12-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice No. (76-100)]

ENVIRONMENTAL IMPACT ASSESSMENT

Negative Declaration

In the FEDERAL REGISTER (Notice 76-42) of May 10, 1976, the National Aeronautics and Space Administration announced publication of the final environmental impact statement for the overland transport of the NASA Space Shuttle Orbiter between U.S. Air Force Plant 42, Palmdale and the Dryden Flight Research Center (DFRC), Edwards Air Force Base, California. In that document, it was stated that, "the Orbiter itself will contain no hazardous materials during transport." This quotation was technically in error; although no fuels will be on board, a small amount of pyrotechnic materials will be installed at Palmdale prior to the overland transport.

The pyrotechnic devices are all associated with systems to provide for the safety of the flight crew during flight operations, and installation at Palmdale prior to overland transport is required because facilities and equipment for this purpose will not be available at DFRC. A total of about 11 kilograms (25 lbs) of these materials in 187 separate devices, with the largest single device weighing about 5.5 kilograms (12 lbs), will be installed at Palmdale. Extensive precau-

tions are being taken to ensure that all devices are deactivated and protected from accidental detonation during transport.

The potential environmental effects associated with the transport of the Orbiter with these materials on board have been assessed. NASA has concluded that the likelihood of accidental detonation is extremely small, and, even if detonation were to take place, damage to the Orbiter would be small and the effect on the local environment negligible. Consequently it has been determined that no modification to the environmental impact statement other than this notice of negative declaration is required.

Done at Washington, D.C., this 8th day of November 1976.

By the direction of the Administrator.

DUWARD L. CROW,
Associate Deputy Administrator,
National Aeronautics and
Space Administration.

[FR Doc.76-33526 Filed 11-12-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EXPANSION ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held on November 30, 1976, and December 1-2, 1976, from 9:00 a.m.-5:30 p.m., in Room 1425, Columbia Plaza Building, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on November 30, 1976, from 9:00 a.m.-12:30 p.m., and December 2, 1976, from 1:00 p.m.-5:30 p.m., on a space available basis. Accommodations are limited. The agenda for this portion of the meeting includes a review of the minutes of the last meeting and staff/panel discussion on the application review process.

The remaining sessions of this meeting, on November 30, 1976, from 12:30 p.m.-5:30 p.m.; December 1, 1976, from 9:00 a.m.-5:30 p.m.; and December 2, 1976, from 9:00 a.m.-1:00 p.m.; are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr.

Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National
Endowment for the Arts, Na-
tional Foundation on the Arts
and the Humanities.

[FR Doc.76-33665 Filed 11-12-76;8:45 am]

NATIONAL COUNCIL ON THE ARTS

Amended Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a change in agenda to the meeting of the National Council on the Arts published in the FEDERAL REGISTER on Wednesday, November 3, 1976, on page 48423 (FR Doc. 76-32254).

The sessions open to the public have been changed to November 19, 1976, from 9:00 a.m.-3:00 p.m.; and November 20, 1976, from 9:30 a.m.-11:00 a.m. The November 19, 1976, agenda includes a presentation/discussion of the Education Program and reports on the implementation of the Challenge Program and the Advertising Council Media Campaign. The November 20, 1976 agenda includes presentations/discussion of program guidelines, Research Division proposals, and analysis of tax reform and copyright provisions.

Dated at Washington, D.C., on November 10, 1976.

ROBERT M. SIMS,
Administrative Officer, National
Endowment for the Arts, Na-
tional Foundation on the Arts,
and the Humanities.

[FR Doc.76-33666 Filed 11-12-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., INDIAN POINT STATION, UNIT NO. 2

[Docket No. 50-247, OL No. DPR-26]

Order Convening Further Conference; Determination of Preferred Alternative Closed-Cycle Cooling System

The Atomic Safety and Licensing Board has considered the various submittals by the parties in reference to the preferred alternative for closed-cycle cooling operation. A stipulation by the parties has been presented which reflected their agreement with the request by Consolidated Edison Company of New York, Inc. (Licensee) that the preferred alternative closed-cycle cooling system is a natural draft, wet cooling tower. The parties have not been able to agree whether all governmental approvals required for the construction of the closed-cycle cooling system have been granted. The importance of this determination respecting governmental approvals is seen from paragraph 2.E(1)(b) of the license which is as follows:

(b) The finality of the May 1, 1979 date also is grounded on a schedule under which the applicant, acting with due diligence, obtains all governmental approvals required to proceed with the construction of the closed-cycle cooling system by December 1, 1975. In the event all such governmental approvals are obtained a month or more prior to December 1, 1975, then the May 1, 1979 date shall be advanced accordingly. In the event the applicant has acted with due diligence in seeking all such governmental approvals, but has not obtained such approvals by December 1, 1975, then the May 1, 1979 date shall be postponed accordingly.

The license thus includes the necessity of a showing by Licensee that it has acted with "due diligence" in endeavoring to secure all governmental approvals. In the brief filed by the Hudson River Fisherman's Association (HRFA), the implication is given that the Licensee did not act with due diligence, by HRFA statements that the Licensee's presentation before the Village of Buchanan's Zoning Board of Appeals "was reluctant"; further, that Licensee presentations "contained neither a listing of environmental harms which had persuaded the NRC to require closed cycle cooling, nor a relevant discussion of the law compelling the granting of the variance" from Buchanan's 40 foot limit needed for the proposed cooling towers. HRFA also asserted that the Licensee apparently did not seek a determination of the Village exemption for "utility towers" from height limitations.¹

HRFA also stated that the Licensee asserted that it intended to seek a change in the NRC license condition respecting closed-cycle cooling and that the Licensee expected to be vindicated in its belief that closed-cycle cooling was not needed, and to secure vindication, the Licensee would seek a delay in the May 1, 1979 date requiring a cessation of operations unless a closed-cycle cooling system was operable.

The Village of Buchanan's Zoning Board of Appeals denied the Licensee's request for variance. Two decisions by separate Courts have declared that the Village of Buchanan should have granted the variance.

The Atomic Safety and Licensing Board concludes that the present record is somewhat sparse in reference to evidence that the Licensee acted with due diligence in its endeavor to secure all governmental approvals by December 1, 1975. The Board is concerned that HRFA has challenged the sufficiency of the record in that regard.

The Atomic Safety and Licensing Board concludes that a further confer-

¹ HRFA stated that the Licensee presented statements respecting the adverse effects of cooling towers (from salt drift and vapor plumes).

² Presumably, HRFA refers to the "doctrine of New York State law", as described by Licensee's attorney: "that the local community cannot interfere with the construction of an essential utility facility."

³ The New York Court noted that no determination had been made by the Village's Zoning Board of Appeals respecting this exemption of utility towers.

ence in this proceeding is advisable to consider if challenge is made to the extent of diligence undertaken by the Licensee in its endeavor to secure all governmental approvals, and if so, what evidence would likely be introduced in that regard, whether a transcript of the hearing was made before the Village of Buchanan's Zoning Board of Appeals, etc.

Wherefore, *It is ordered*, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, That a conference among the attorneys to the proceeding, but open to the public, shall convene at 3:00 p.m. on Wednesday, December 8, 1976, in the Ceremonial Courtroom on the first floor of the Westchester County Courthouse, 111 Grove Street, White Plains, New York, to consider if challenge is made to the due diligence by the Licensee in its endeavor to secure governmental approvals of needed permits for the construction of a closed-cycle cooling system and the nature of evidence that might be introduced if the proceedings were reopened to consider such a challenge.

Issued: November 9, 1976, Bethesda, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.76-33576 Filed 11-12-76; 8:45 am]

[Docket No. PRM-71-3]

DIAGNOSTIC ISOTOPES CORP.

Filing of Petition for Rulemaking

Notice is hereby given that Mr. James J. Finn, President, Diagnostic Isotopes, Incorporated, by letter dated October 1, 1976, has filed with the Nuclear Regulatory Commission a petition for rule making to amend the Commission's regulation "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions," 10 CFR Part 71.

The petitioner requests the Commission to initiate a rulemaking action to amend Appendix C of Part 71 to include the radionuclide lead-201 in Transport Group IV.

The petitioner states that lead-201 is closely associated with thallium-201 which is presently listed in Group IV of Appendix C and due to the short half-lives of these nuclides, the time for transportation of lead-201 can be utilized for the build-up of thallium-201, which isotope is useful in clinical diagnosis. The petitioner also states that the toxicity and relative potential hazard in transport for lead-201/thallium-201 is low.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, Nuclear Regulatory Commission, Washington, D.C. 20555.

All interested persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, on or before January 14, 1977.

Dated at Washington, D.C. this 9th day of November 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-33431 Filed 11-12-76; 8:45 am]

[Docket No. 50-249]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 23 to Facility Operating License No. DPR-25, issued to Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of the Dresden Nuclear Power Station Unit No. 3 (the facility) located in Grundy County, Illinois. The amendment is effective as of its date of issuance.

The amendment (1) authorized operation with additional 8 x 8 fuel assemblies as replacements for existing fuel assemblies, (2) incorporated revised MCPR limits in response to the plant specific analysis for reload 4, (3) modified License Condition 3.E to reflect end-of-cycle scram reactivity conditions for reload 4, and (4) revised the remedial actions specified in the Technical Specifications related to core thermalhydraulic limits (MAPLHGR, LHGR, and MCPR).

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 23, 1976, (2) the application for amendment dated August 23, 1976, and a supplement thereto dated October 19, 1976, (3) Amendment No. 23 to License No. DPR-25, and (4) the Commission's related Safety Evaluation. All of these items are available for public

inspection at the Commission's Public Document Room, 1717H Street, N.W., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this fourth day of November, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors
Branch No. 2, Division of Operating Reactors.

[FR Doc.76-33432 Filed 11-12-76;8:45 am]

[Docket No. STN 50-484]

**NORTHERN STATES POWER CO.
(MINNESOTA) ET AL.**

**Receipt of Additional Antitrust Information;
Time for Submission of Views**

Northern States Power Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on August 20, 1976, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Cooperative Power Association, Dairyland Power Cooperative, and Lake Superior District Power Company as owners of the Tyrone Energy Park, Unit No. 1.

The information was filed by Northern States Power Company (Minnesota) in connection with an application for a construction permit and operating license for a pressurized water nuclear reactor to be located on the applicants' site in Dunn County, Wisconsin. The Tyrone Energy Park, Unit No. 1 is a SNUPPS standardized plant design.

The original antitrust portion of the application was submitted on April 30, 1974, and Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on August 30, 1974 (39 FR 31683). The Notice of Hearing was published in the FEDERAL REGISTER on August 30, 1974 (39 FR 31688).

A copy of all the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the University of Wisconsin, Stout Library, Menomonie, Wisconsin 54751.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Nuclear Reactor Regulation, on or before January 10, 1977.

Dated at Bethesda, Maryland, this 2nd day of November, 1976.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors
Branch No. 3, Division of Project Management.

[FR Doc.76-32768 Filed 11-5-76;8:45 am]

[Docket Nos. 50-275 OL; 50-323 OL]

**PACIFIC GAS & ELECTRIC CO. (DIABLO
CANYON SITE, UNITS 1 AND 2)**

**Scheduling the Evidentiary Hearing on
Environmental Issues**

In a conference call on October 5, 1976 and in the Board's order of October 12, 1976 the parties were put on notice of the dates and location of the evidentiary hearing on environmental issues. The hearing will commence at 9:30 a.m. (local time) on December 7, 1976 at the Madonna Inn, 100 Madonna Road, San Luis Obispo, California. It is anticipated that the hearing will continue through December 17, 1976 (excluding Saturday and Sunday). After consulting with the other parties, the NRC Staff suggested a proposed witness schedule by letter of October 29, 1976 that is acceptable to the Board.

The public is invited to attend. Limited appearance statements of not more than five (5) minutes each will be accepted at the commencement of the hearing. Written statements with no limitation on length may be offered. Limited appearance statements were given by many individuals at the evidentiary hearing in December 1975 concerning the transportation of nuclear fuels into San Luis Obispo County. Some of the statements given at that time were limited to the fuel coming into the county but other statements were concerned generally with the operation of the Diablo Canyon plant. Since those statements are a part of the record, individuals are requested not to repeat what was previously stated.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland this 5th day of November, 1976.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc.76-33433 Filed 11-12-76;8:45 am]

[Docket No. 50-271]

**VERMONT YANKEE NUCLEAR POWER
CORP. (VERMONT YANKEE NUCLEAR
POWER STATION)**

**Order Cancelling Evidentiary Hearing
Previously Scheduled for December 7, 1976**

At a prehearing conference convened in this proceeding on October 14, 1976, arrangements were completed for convening an evidentiary hearing on Decem-

ber 7, 1976 in Brattleboro, Vermont. The evidentiary hearing was scheduled to consider issues on waste management and disposal as outlined in the General Statement of Policy issued by the Nuclear Regulatory Commission following the decision of the United States Court of Appeals issued July 21, 1976, entitled "NRDC v NRC".

On November 5, 1976, the Nuclear Regulatory Commission issued a Supplemental General Statement of Policy (to that issued August 16, 1976) particularly in reference to the Commission's interim rule expected to be issued by approximately January 1977, and in view thereof, the Commission concluded as follows:

* * * With respect to show cause-type proceedings initiated by others pursuant to the August 16, 1976 General Statement of Policy, which are presently under way, the Memoranda and Orders we are issuing today in those proceedings have the effect of suspending them pending anticipated adoption of an interim rule.

In sum, the Commission has concluded that subject to the limitations hereinafter expressed, full-power operating licenses, construction permits and limited work authorizations may be issued in pending cases in advance of the adoption of the interim rule on the basis of the currently effective chemical reprocessing and waste storage values of Table S-3. The Commission directs that such licenses may be issued only if further, specific analysis is performed to determine whether, if the revised chemical reprocessing and waste storage values set forth in the Commission's notice of proposed rulemaking of October 18, 1976 were used, the result would tilt the cost-benefit balance against the issuance of the license. * * * Under this approach the accuracy of the revised values is not to be an issue in the proceeding, but the determination whether the cost-benefit balance would be tilted, if the revised values were used, is fully at issue in the proceeding. Further, any full-power operating license, construction permit or limited work authorization issued under this approach must be conditioned in accordance with the court's order (staying its mandate) dated October 8, 1976.

The Atomic Safety and Licensing Board in the issuance of this Order cancelling the December 7, 1976 evidentiary hearing requests comments from the parties respecting future steps to be undertaken in this proceeding.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that the evidentiary session of hearings in this proceeding scheduled to convene in the United States District Courtroom in Brattleboro, Vermont, on December 7, 1976 is cancelled.

Issued: November 8, 1976 Bethesda, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.76-33434 Filed 11-12-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WASTE MANAGEMENT SUBCOMMITTEE

Change in Agenda

The agenda of the November 19-20, 1976 meeting of the ACRS Subcommittee on Waste Management announced in *FEDERAL REGISTER*, Vol. 41, November 4, 1976, page 48612, has been changed as follows:

Friday, November 19, 1976: The meeting will begin at 1:30 p.m., as indicated below, instead of 8:30 a.m., as previously announced.

1:30 p.m.-2:00 p.m.: The Subcommittee will meet in open Executive Session, with any of its consultants who may be present, to exchange opinions and discuss preliminary views and recommendations relating to this review.

2:00 p.m. until conclusion of business on November 19: The Subcommittee will meet in open session to hear presentations by the NRC Staff and NRC Staff consultants, and will hold discussions with them pertinent to this review.

Saturday, November 20, 1976: 8:30 a.m. until conclusion of business on November 20: The Subcommittee will meet in open working session to determine whether the matters identified in the initial session have been adequately covered and to discuss preliminary conclusions and recommendations of the Subcommittee to the ACRS.

All other matters pertaining to this meeting remain the same.

Dated: November 10, 1976.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc.76-33574 Filed 11-12-76; 8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON PRESSURIZED WATER REACTOR PRESSURE VESSEL BLOWDOWN FORCES

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Working Group on Pressurized Water Reactor Pressure Vessel Blowdown Forces will meet on December 1, 1976, at the Quality Inn, 5245 West Century Boulevard, Los Angeles, CA. The purpose of this meeting is to continue the Committee's review of the calculations of loadings on reactor pressure vessels and their supports under severe accident conditions.

The agenda for the subject meeting shall be as follows:

Wednesday, December 1, 1976:

8:30 a.m.-9:00 a.m.: The Working Group will meet in closed Executive Session, with any of its consultants who may be present, to explore their preliminary opinions, based upon their independent review of reports regarding matters which should be considered during the open sessions in order to formulate a Working Group report and recommendations to the full Committee.

9:00 a.m.-11:00 a.m.: The Working Group will meet in open session with representa-

tives of the Westinghouse Electric Corporation, the NRC Staff, and their consultants, to discuss blowdown loadings on reactor pressure vessels and their supports under severe accident conditions.

11:00 a.m.-12:00 Noon: The Working Group will meet in open session with representatives of the NRC Staff, and their consultants, to discuss the status of the NRC review of Babcock and Wilcox and Combustion Engineering models for calculating the blowdown loadings on reactor pressure vessels and their supports under severe accident conditions.

1:00 p.m. until the conclusion of business: The Working Group will meet in open session with representatives of the NRC Staff, and their consultants, to discuss NRC funded research dealing with the modeling of blowdown forces.

At the conclusion of the open session, the Working Group may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full Committee. During this session, Working Group members and consultants will discuss their opinions and recommendations on these matters.

In addition to these closed deliberative sessions, it may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring with the NRC Staff and participants matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Working Group's deliberative process (5 U.S.C. 552(b)(5)) and to protect proprietary information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions, and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing 15 readily reproducible copies to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Working Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than November 24, 1976, to Dr. Richard Savio, ACRS, NRC, Washington, DC 20555 will normally be

received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman of the Working Group.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on November 30, 1976 to the Office of the Executive Director of the Committee (telephone 202/634-1371, Attn: Dr. Richard Savio) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Dr. Richard Savio of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after December 8, 1976 at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room 1717 H St., N.W., Washington, DC 20555 after

March 1, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: November 9, 1976.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc. 76-33575 Filed 11-12-76; 8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

U.S. INMARSAT PREPARATORY COMMITTEE WORKING GROUP

Meeting

To facilitate preparation for the first International INMARSAT Preparatory Committee meeting in January 1977, notice is hereby given that the U.S. INMARSAT Preparatory Committee Working Group will meet three times between late November and early January. The U.S. Working Group will convene in Room 712, 1800 G Street, NW., Washington, D.C. 20504, at 9:30 am for each meeting. The dates of these meetings are: November 29, 1976, December 20, 1976; and January 4, 1977.

The principal agenda items will be substantially the same at each of the three meetings. Those agenda items are as follows:

INMARSAT Preparatory Committee Structure and Organization.

Discussion of the following questions:

Does the United States desire to second staff, contribute facilities, and/or conduct studies singly or jointly?

How often should the Preparatory Committee meet?

Does the United States support the establishment of a technical panel?

What other subsidiary bodies does the United States consider necessary?

Does the United States support the concept of IMCO providing accommodation facilities and secretarial services? If not, what alternative procedures shall we support?

Preparatory Committee Work Program. Discussion of paper to be distributed prior to meeting.

Services to be offered:

Safety.

Radiodetermination.

Discussion of user requirements.

Discussion of means of meeting user requirements.

Any other type of service.

No discussion planned on this agenda item unless specific proposals are submitted.

Performance standards of land and ship earth stations.

Interconnection with Public Telecommunications Networks.

No discussion planned on this agenda item unless specific proposals are submitted.

Ship earth station reliability.

Operational procedures.

Discussion of procedures for telephony based upon paper to be distributed prior to the meeting.

Organizational matters.

Preliminary discussion of tasks and responsibilities to the Director General and Directorate and their relationship with any management services contractor or other contractors.

New business.

The meetings will be open to the public; any member of the public will

be permitted to file a written statement with the Working Group before or after the meetings.

The names of the members of the Working Group, a copy of the agenda, a summary of the meetings, and other information pertaining to the meetings may be obtained from Mr. William T. Adams, Office of Telecommunications Policy, Washington, D.C. 20504 (telephone: 202/395-3782).

Dated: November 11, 1976.

L. DANIEL O'NEILL,
Advisory Committee
Management Officer.

[FR Doc. 76-33734 Filed 11-12-76; 8:45 am]

POSTAL RATE COMMISSION

[Docket Nos. MC76-1—MC76-4]

MAIL CLASSIFICATION SCHEDULE, 1976

Adoption

NOVEMBER 9, 1976.

Notice is hereby given that pursuant to the Administrative Law Judge's "Order Denying Motion by Officer of the Commission to Direct Postal Service to File a Revised Mail Classification Schedule But Granting Certain Other Relief Sought", dated November 8, 1976, the following schedule shall be adopted to be followed on a consolidated basis for Docket Nos. MC76-1, 2, 3, and 4, without thereby modifying the hearing and post-hearing schedule currently in effect in said dockets:

1. The catalog of special services set forth in the July 7, 1976 position statement of OOC (at p. 51) does not appear to be complete. The OOC and the Postal Service shall convene an informal off-the-record conference open to all participants, to be held at as early a date as practicable, with a view to thereafter submitting to the presiding officer a joint statement if possible, if not, separate statements, listing special services currently offered and distinguishing, if any distinction is so drawn, between operational and experimental or test-type offerings, together with a definition of the basis for the dichotomy between operational special service offerings on the one hand and experimental or test-type special service offerings on the other hand. Such statement or statements shall be filed not later than December 1, 1976.

2. Filing not later than December 13, 1976 of prepared direct testimony, containing text of proposed classification schedule provisions defining, advertising to or otherwise pertaining to, special services, by any participant advocating inclusion of such special services in the schedule. Such filings shall identify the present text, if any, of antecedent provisions of the Postal Service Manual, or pertinent operating instructions, manuals or other sources whereby such services are currently tendered to the public.

3. Discovery with respect to said filings may commence upon filing of said prepared direct testimony, with response thereto due not later than 20 days following service, or January 10, 1977, whichever date comes first.

4. Hearings on special services testimony and proposed textual provisions to commence on January 24, 1977, with a Prehearing Conference thereon to be held January 21, 1977, at 9:30 a.m., at the Commission's Hearing Room. Scheduling for rebuttal and post-hearing procedures on special services testimony will be postponed until on or after the conference to be held January 21, 1977.

The question of the scope and extent of the classification schedule is severed from the particular schedule change proposals (including special services provisions) and is hereby made the subject of a Prehearing Conference to be held on March 7, 1977, at 9:30 a.m., at the Commission's Hearing Room. Participants shall be prepared to discuss positions with respect to particular conditions of mailability and requirements of the mailer which they advocate be included in or excluded from the schedule. Written statements of position in lieu of, or in addition to, oral statements will be received. It is anticipated that a schedule will be developed at or promptly after said conference to provide for full hearing and post-hearing procedures on such issues, which issues are hereby severed from consideration of the particular change proposals now at issue in Docket Nos. MC76-1, 2, 3, and 4.

JAMES R. LINDSAY,
Secretary of the Commission.

[FR Doc. 76-33580 Filed 11-12-76; 8:45 am]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Quarterly Rate of Excise Tax Determination

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1977, shall be at the rate of twelve and one-half cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 1977, 13.1 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 86.9 percent of the taxes collected under such sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: November 8, 1976.

By Authority of the Board.

R. F. BUTLER,
Secretary of the Board.

[FR Doc. 76-33552 Filed 11-12-76; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12959; SR-BSE-76-3]

BOSTON STOCK EXCHANGE

Order Approving Proposed Rule Change by the Boston Stock Exchange

NOVEMBER 8, 1976.

In the Matter of BOSTON STOCK EXCHANGE, 53 STATE STREET, BOSTON, MASSACHUSETTS 02109, (SR-BSE-76-3).

On September 20, 1976, the Boston Stock Exchange filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of several amendments to a previously proposed rule change and constitutional change package (File No. BSE-76-3) to restructure its disciplinary procedures and rules regarding access to the facilities of the Exchange.

Notice of the proposed rule and constitutional changes together with the terms of their substance was given by publication of a Commission Release (Securities Exchange Act Release No. 12837 (September 28, 1976)), and by publication in the FEDERAL REGISTER (41 FR 44767 (October 12, 1976)).

The Commission finds that the proposed rule and constitutional changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule and constitutional changes be, and they hereby are, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-33660 Filed 11-12-76; 8:45 am]

CINCINNATI STOCK EXCHANGE

Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 8, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Mobil Corp. Common Stock, \$7.50 par value
File No. 7-4886.

Upon receipt of a request, on or before November 24, 1976 from any interested

person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-33661 Filed 11-12-76; 8:45 am]

[Release No. 19748; 70-5919]

LOUISIANA POWER & LIGHT CO.

Proposed Issue and Sale of First Mortgage Bonds

NOVEMBER 8, 1976.

In the Matter of Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174.

Notice is hereby given that Louisiana Power & Light Company ("Louisiana"), an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Louisiana proposes to issue and sell at competitive bidding \$40,000,000 principal amount of its First Mortgage Bonds ("Bonds"), --% Series. It is anticipated that the Bonds will have a term of 30 years; if however, market conditions require a different term of years Louisiana will amend its declaration to provide for a different term or to establish a procedure whereby Louisiana will give notice of the maturity date of the Bonds at a reasonable time in advance of the date fixed for the presentation of bids. The interest rate of the Bonds and the price, exclusive of accrued interest, which will be not less than 100% nor more than 102-3/4% of the principal amount thereof, will be determined by competitive bidding. The Bonds will be issued under the Mortgage and Deed of Trust ("Mort-

gage") dated April 1, 1944 between Louisiana and The Chase Manhattan Bank (N.A.) and Charles F. Ruge as trustee, as heretofore supplemented by various indentures and as it is to be further supplemented by a twenty-third supplemental indenture ("Supplemental Indenture") to be dated the first day of the calendar month in which the Bonds are issued. The Bonds will be redeemable, at the option of Louisiana, in whole or in part at any time prior to maturity. The Supplemental Indenture will include a prohibition, for a period of not more than five years, against refunding the Bonds, directly or indirectly, with funds borrowed at a lower effective interest cost.

Louisiana will apply the net proceeds derived from the sale of the Bonds to the payment of short-term borrowings, estimated to total \$20,000,000 at the time the proceeds are received, and the financing, in part, of Louisiana's construction program.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$160,000, including legal fees of \$46,000 and accounting fees of \$11,000. The fee of counsel for the purchasers of the Bonds is estimated at \$15,000 and will be paid by the successful bidders. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 2, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-33659 Filed 11-12-76; 8:45 am]

[Rel. No. 19749; FO-5910]

NARRAGANSETT ELECTRIC CO. AND NEW ENGLAND POWER CO.**Transfer of Ownership Interest in Generating Units Between Affiliates**

NOVEMBER 8, 1976.

In the Matter of The Narragansett Electric Company, 280 Melrose Street, Providence, Rhode Island 02901; New England Power Company, 20 Turnpike Road, Westborough, Massachusetts 01581.

Notice is hereby given that The Narragansett Electric Company ("Narragansett") and New England Power Company ("NEPCO"), electric utility subsidiary companies of New England Electric System, a registered holding company, have filed a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating section 12(f) of the Act as applicable to the following transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the following transactions.

NEPCO, along with three other New England utilities not affiliated with NEPCO, has entered into an agreement under which NEPCO, as lead owner, proposes to construct two nuclear electric generating units ("units") at a site in Charleston, Rhode Island or at some alternate site. Rhode Island law requires that if a foreign utility (not organized in Rhode Island) exercises certain powers over a generating facility in Rhode Island and if that foreign utility has an affiliate operating in Rhode Island, the affiliated Rhode Island utility shall participate in the ownership of the facility. Narragansett is a Rhode Island utility and therefore to comply with the statute, NEPCO, a Massachusetts utility, has transferred a 0.26 ownership interest in the units to Narragansett. NEPCO and Narragansett seek authority under section 12(f) of Act to make this transfer of the ownership interest.

It is stated that Narragansett has paid NEPCO \$57,190.53 for the transfer of the ownership interest. This consideration represents 0.26% of expenditures incurred with respect to the units, consisting of \$32,930.08 for construction expenditures, \$23,230.78 for nuclear fuel expenditures and \$1,029.67 for expenditures related to the acquisition of the site for the units.

It is stated that the contract between Narragansett and NEPCO regarding the transfer of ownership interest has been filed with the Rhode Island Division of Public Utilities and Carriers and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the transaction. Fees and expenses to be incurred in connection with the transaction are estimated not to exceed \$2,000, consisting of services provided at cost by New England Power Service Company.

Notice is further given that any interested person may, not later than December 6, 1976, request in writing that a

hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration; as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exception from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-33655 Filed 11-12-76; 8:45 am]

[Release No. 19747; FO-5922]

NATIONAL FUEL GAS CO.**Proposed Amendments of Certificate of Incorporation and Solicitation of Proxies in Connection Therewith**

NOVEMBER 8, 1976.

In the Matter of National Fuel Gas Company, 30 Rockefeller Plaza, New York, New York 10020.

Notice is hereby given that National Fuel Gas Company ("National"), a registered holding company, has filed a declaration with this Commission designating sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 62 and 65 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

National's Certificate of Incorporation presently authorizes 6,000,000 shares of common stock of which 5,122,515 shares are currently issued and outstanding. National proposes to amend its Certificate of Incorporation to increase the number of authorized shares of common stock from 6,000,000 shares to 9,500,000 shares to provide a reasonable number of authorized but unissued shares of common stock for the purposes stated below. National believes that it is in the best interests of the company to have shares available for such purposes as obtaining equity capital, acquisitions, mergers,

stock splits, or stock dividends. At the present time, National has no plans or arrangements for the issuance of any additional shares of common stock.

National also proposes to amend its Certificate of Incorporation to bring it into conformity with the current provisions of the New Jersey Business Corporation Act ("New Jersey Act") so that the affirmative vote of a majority (rather than two-thirds) of the votes cast is needed to amend the Certificate of Incorporation, approve mergers or consolidations, approve sales, leases, exchanges, or other disposition of all or substantially all of the assets of the company, and to dissolve the company.

National intends to submit the preceding proposals for consideration and adoption by the stockholders at the annual meeting of stockholders to be held on or about January 27, 1977. To effect such amendments to the Certificate of Incorporation, approval by two-thirds of the votes cast by holders of National's outstanding common stock will be necessary. National proposes to solicit proxies from its common stockholders in connection with the proposed amendments.

The fees and expenses to be incurred in connection with the proposed transactions are to be supplied by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 3, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-33658 Filed 11-12-76; 8:45 am]

[Release No. 12958; SR-OCC-76-3]

OPTIONS CLEARING CORP.

Order Approving Rule Change Submitted by the Options Clearing Corporation Relating to Clearing Members' Financial Responsibility

NOVEMBER 5, 1976.

In the Matter of The Options Clearing Corporation, 5950 Sears Tower, 233 S. Wacker Drive, Chicago, Illinois 60606.

On May 25, 1976, the Options Clearing Corporation ("OCC") submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), proposed changes to OCC Rule 304.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (41 FR 23501, June 10, 1976), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-12514, June 3, 1976. By letter dated October 22, 1976, OCC amended the filing. The amendments were incorporated in the OCC submission and included in the public file.

The proposed change to OCC Rule 304 would prohibit withdrawals of capital from any clearing member organization if the effect would be to reduce the organization's net capital below the withdrawal prohibition levels.

The Commission has reviewed the proposed change to Rule 304 and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to section 19(b) (2) of the Act, that the proposed change to OCC Rule 304 contained in File No. SR-OCC-76-3 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-33657 Filed 11-12-76; 8:45 am]

[Release No. 9517; 812-3988]

PUTNAM DAILY DIVIDEND TRUST

Application Pursuant to Section 6(c) for Exemption from the Provisions of Section 19(b) of the Act and Rule 19b-1 Thereunder

NOVEMBER 9, 1976.

In the Matter of Putnam Daily Dividend Trust, 265 Franklin Street, Boston, Massachusetts 02110.

Notice is hereby given, That Putnam Daily Dividend Trust ("Applicant"), a Massachusetts business trust registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management company, has filed on July 13, 1976, an application pursuant to section 6(c) of the Act for an exemption from provisions of section 19(b) of the Act and Rule 19b-1 thereunder to allow

it to distribute long-term capital gains more often than once every 12 months. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that its investment objective is to achieve a high rate of current income believed to be consistent with preservation of capital and maintenance of liquidity, which it seeks to achieve by investing in a portfolio of money market instruments consisting exclusively of marketable securities issued or guaranteed as to principal and interest by the government of the United States or by its agencies or instrumentalities, bank certificates of deposit, bankers' acceptances, prime commercial paper, high grade short term corporate obligations and repurchase agreements with respect to United States Treasury or agency obligations. It further states that Applicant expects that its assets will be generally invested in obligations maturing in less than one year from the time of investment.

Applicant further states that it will attempt to maximize yields by engaging in portfolio trading and by buying and selling portfolio investments in anticipation of or in response of changing economic and money market conditions and trends and will also invest to take advantage of what are believed to be temporary disparities in the yields of the different segments of the high grade money market or among particular instruments within the same segment of the market.

Applicant represents that these policies, as well as the relatively short maturity of obligations to be purchased by Applicant, may result in frequent changes in its portfolio.

Applicant submits that its investment manager is to be The Putnam Management Company, Inc. ("Management") and that the management contract to be entered into between Applicant and Management provides for a management fee payable by Applicant at the annual rate of $\frac{1}{2}$ of 1 percent of its average net asset value, subject to certain expense limitations.

Applicant states that sales and redemptions of its shares are at a constant net asset value of \$1 per share and that it is currently intended that shares will be distributed without an underwriter directly by Applicant.

Applicant further states that all of its net income is declared daily as a dividend to shareholders; that dividends are reinvested in Applicant or paid in cash monthly; and that its net income is determined once each day that the New York Stock Exchange is open, as of the close of that Exchange (normally 4 P.M., Boston time). It represents that each daily determination of its net income shall include (i) accrued interest on its portfolio investments (ii) plus or minus all realized and unrealized gains and losses on its portfolio investments, and (iii) less all its accrued expenses.

Applicant further represents that unrealized gains and losses are determined by valuing its portfolio investments. It submits that securities for which market quotations are readily available are valued at a price which, in the opinion of the Trustees or the person making the determination, most nearly represents the market value of the particular security, generally at the most recent bid price as obtained from one or more of the market makers for such securities; that other securities and assets are valued at their fair value as determined in good faith by the Trustees; that obligations of banks, commercial paper and repurchase agreements are "marked to market", i.e., valued on the basis of quoted yields for securities of comparable maturity, quality and type, except securities having 60 days or less to maturity at the time of investment, which are valued at amortized cost; that issuer-placed commercial paper is valued at amortized cost; and that Applicant's expenses are accrued each day.

Applicant states that all of its net income is declared on each day that it is open for business as a dividend to shareholders of record at the time of each declaration and that shareholders begin earning dividends on the day following acceptance of their orders. It further states that each month's dividends will be paid on the first business day of the next month, in cash or reinvested in additional shares of Applicant at the rate of one share (and fraction thereof) for each dollar (and fraction thereof) of any dividend paid; and that a shareholder who withdraws all of his or her account at any time during the month will be paid all dividends declared through the date of withdrawal together with the proceeds of the withdrawal. Applicant represents that its net income for Saturdays, Sundays, and holidays will be declared as a dividend on the next business day.

Applicant further represents that since its net income is declared as a dividend each time it is determined, the net asset value per share of Applicant remains at \$1 per share immediately after each determination and dividend declaration and that any increase in the value of a shareholder's investment representing the reinvestment of dividend income is reflected by an increase in the number of shares in the shareholder's account at the end of each month. Applicant expects that its net income will be positive each time it is determined; but if, because of a sudden rise in interest rates or for any other reason, the net income of Applicant determined at any time is a negative amount, it will offset such amount allocable to each then shareholder's account from the dividends accrued during the month with respect to such account. Applicant states that in the event that at the time of payment of a dividend (either at the regular monthly dividend payment date, or, in the case of a shareholder who is withdrawing all or substantially all of the shares in his or her account, at the time of withdrawal),

such negative amount exceeds a shareholder's accrued dividends, it will reduce the number of its outstanding shares by treating the shareholder as having contributed to Applicant's capital that number of full and fractional shares which represents the amount of the excess and that each shareholder will be deemed to have agreed to such contribution in these circumstances by his or her investment in Applicant.

Section 19(b) of the Act states that it shall be unlawful in contravention of such rules, regulations, or orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors for any registered investment company to distribute long-term capital gains, as defined in the Internal Revenue Code of 1954 ("Code"), more often than once every twelve months.

Rule 19b-1 thereunder states in part that no regulated investment company shall distribute more than one capital gain dividend, as defined in section 852 (b) (3) (C) of the Code, with respect to any one taxable year of the company.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that, because of the nature of its investments in money market instruments, it does not expect to realize any substantial amount of long-term gains which would be available for the payment of long-term capital gains distributions; but that if its management's judgment as to optimum investment strategy results in such a realization of long-term capital gains, Applicant wishes to be in a position to declare such gains at the time they are realized. It further states that because it intends to declare its accumulated net income as a dividend daily and pay it monthly to enable each investor to receive on his investment the exact proportion of such net income earned on his shares each day that he remains a shareholder, unless such an exemption is granted Applicant's investments will have to be managed so as to avoid incurrence of any long-term capital gains inasmuch as the payment of capital gains only once each year would not be compatible with daily dividends and the maintenance of a fixed net-asset value.

Notice is further given, That any interested person may, not later than December 6, 1976 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such com-

munication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-33662 Filed 11-12-76; 8:45 am]

[Release No. 12961; SR-TAD-76-2]

TAD DEPOSITORY CORP.

Order Approving Rule Change Submitted by TAD Depository Corporation Providing for the Establishment of a Pledged Securities Service

NOVEMBER 8, 1976.

In the Matter of TAD Depository Corporation, 2 Broadway, New York, N.Y. 10004.

On September 10, 1976 the TAD Depository Corporation ("TAD") submitted a proposed rule change pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), providing for the implementation of a Pledged Securities Service. The proposed service would permit participants in TAD to pledge their shares on deposit with TAD as collateral to secure loans.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, the rule change was published in the FEDERAL REGISTER (41 FR 43483, October 1, 1976), and the public was invited to submit comments. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 12822, September 21, 1976. No letters of comment were received.

The Commission has reviewed the TAD submission and finds pursuant to paragraph (g) of Rules 8c-1 and 15c-1 under the Act that the agreements, provisions and safeguards established by TAD are adequate for the protection of investors. The Commission finds also that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, Pursuant to section 19(b) (2) of the Act, that the proposed rule change contained in File No. SR-TAD-76-2 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-33656 Filed 11-12-76; 8:45 am]

SMALL BUSINESS ADMINISTRATION

CLEVELAND DISTRICT ADVISORY COUNCIL

Meeting

The Small Business Administration Cleveland District Advisory Council will hold a public meeting from 9:00 a.m. until 12:00 noon, Tuesday, November 30, 1976 at the AJC Federal Building—Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199 to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call S. Charles Hemming, Jr., at the above address (216) 293-3131.

Dated: November 8, 1976.

HENRY V. Z. HYDE, JR.,
Deputy Advocate for
Advisory Councils.

[FR Doc.76-33582 Filed 11-12-76; 8:45 am]

[License No. 03/03-5122]

COTTMAN CAPITAL CORP.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Cottman Capital Corporation (CCC), 575 Virginia Drive, Fort Washington, Pennsylvania 19034, a Federal licensee under section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has filed an application pursuant to § 107.1004(b) (5) (13 CFR S. 107.1004 (1976)), for approval of a conflict of interest transaction.

CCC was licensed by the Small Business Administration (SBA) on January 13, 1976. The licensee's voting stock is owned by Cottman Franchises International, Inc. (CFI). CFI has extensive experience in franchising transmission system repair centers.

On February 18, 1976, Mr. Joseph Davis and his brother, Wilson through their corporation, Davis Enterprises, Inc., agreed to purchase a Cottman Transmission Center located in Columbus, Ohio. This Center is being operated by Leo Transmission, Inc., a wholly-owned subsidiary of CFI.

CCC has provided a 9½ percent, 10½ year, \$27,500 loan to Davis Enterprises, Inc., and purchased a 9½, 10 year, \$13,800 debenture. The debenture can be converted into 45 percent of the small concern's stock.

The transaction falls within the purview of § 107.004 by reason of the fact that CCC and Leo Transmission, Inc. are subsidiaries of CFI, and the financing will be used by Davis Enterprises, Inc., to ac-

quire property from an associate of the licensee.

Notice is hereby given that any person may submit to SBA written comments, no later than on or before November 30, 1976 on this financing. Any such communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by the licensee in a newspaper of general circulation in the Fort Washington, Pennsylvania and the Columbus, Ohio areas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 9, 1976.

PETER F. McNEISH,
Deputy Associate Administrator
for Investment.

[FR Doc.76-33533 Filed 11-12-76;8:45 am]

[Proposed License No. 06/06-0188]

MERCANTILE TEXAS CAPITAL CORP.

Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. Section 107.102 (1976)), under the name of Mercantile Texas Capital Corporation (Applicant), 1704 Main Street, Dallas, Texas 75201, for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholder of the Applicant are as follows:

Karl T. Butz, Jr., Chairman of the Board, 10856 Strait Lane, Dallas, Texas 75229.
James B. Gardner, President, Director, 9137 Locarno Drive, Dallas, Texas 75231.
George L. Clark, Vice President, Director, 3717 Euclid Avenue, Dallas, Texas 75205.
L. David Harrison, Secretary/Treasurer, Director, 621 Wentworth, Richardson, Texas 75080.
Myron T. Butler, Asst. Vice President, Asst. Secretary, 6739 Northport, Dallas, Texas.
Gene H. Bishop, Director, 3601 Turtle Creek Blvd., No. 1106, Dallas, Texas 75219.
Mercantile National Bank at Dallas, 100 percent shareholder, Dallas, Texas 75201.

Mercantile National Bank at Dallas is a wholly-owned subsidiary (except for directors' qualifying shares) of Mercantile Texas Corporation (MTC), a federal bank holding company. As of October 25, 1976, there were 2,639 shareholders of MTC.

The Applicant has only one class of stock authorized. There are 100,000 shares of common stock authorized, and the initial capitalization will be \$3,000,000. The securities issued by the Applicant will constitute two-tenths of one

percent of the total assets of Mercantile National Bank at Dallas.

The Applicant will conduct its operations principally in the State of Texas and contiguous States, and in other areas within the United States and its territories and possessions as may be approved by SBA from time to time.

Matters involved in SBA's consideration of the Application include the general business reputation and character of management and the shareholder, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than November 30, 1976 submit to SBA in writing, comments on the proposed licensing of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published by the Applicant in a newspaper of general circulation in Dallas, Texas.

(Catalog of Federal Domestic Assistance Program No. 59-011 Small Business Investment Companies.)

Dated: November 5, 1976.

PETER F. McNEISH,
Deputy Associate Administrator
for Investment.

[FR Doc.76-33581 Filed 11-12-76;8:45 am]

TASK FORCE ON VENTURE AND EQUITY CAPITAL

Meeting

The Small Business Administration Task Force on Venture and Equity Capital will hold a meeting on Friday, Nov. 19 at 10:00 a.m. The meeting, to discuss the means of providing venture and equity capital for small business, will be held at the Small Business Administration, 10th floor Board Room, 441 L Street, N.W., Washington, D.C. 20416.

Dated: November 10, 1976.

PETER F. McNEISH,
Deputy Associate Administrator
for Investment.

[FR Doc.76-33591 Filed 11-12-76;8:45 am]

[License No. 01-01-5286]

UNITED VENTURE CORPORATION, INC. Issuance of License To Operate as a Small Business Investment Company

On October 13, 1976, a notice was published in the FEDERAL REGISTER (41 FR 44904) stating that United Venture Corporation, Inc., 495 Shrewsbury Street, Worcester, Massachusetts 01604 has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1976) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business October 28, 1976, to sub-

mit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 01/01-5286 to United Venture Corporation Inc. on October 29, 1976.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: November 9, 1976.

PETER F. McNEISH,
Deputy Associate Administrator
for Investment.

[FR Doc.76-33532 Filed 11-12-76;8:45 am]

DEPARTMENT OF STATE

[CM-6/132]

SHIPPING COORDINATING COMMITTEE; COMMITTEE ON OCEAN DUMPING

Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting on at-sea incineration from 9 a.m. to 4 p.m. on Monday, December 13, 1976, in Room 3305 Waterside Mall, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C.

The meeting is to discuss proposed regulatory provisions and technical guidelines for at-sea incineration being prepared for a meeting of experts of the Contacting Parties to the Ocean Dumping Convention to be held in London in early 1977.

Requests for further information on the meeting should be directed to Mr. Russel Wyer, Deputy Director, Oil and Special Materials Control Division (WH-548), Environmental Protection Agency, Washington, D.C. 20460. Mr. Wyer may be reached by telephone on (202) 245-3048.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,

Shipping Coordinating Committee.

NOVEMBER 8, 1976.

[FR Doc.76-33588 Filed 11-12-76;8:45 am]

[CM-6/133]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on container transport of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, December 15, 1976, in Room 8334 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting will be to review:

The agenda for the 18th Session of the Group of Rapporteurs on Container Transport to be convened in Geneva on January 10, 1977.

The actions taken by the UNCTAD Ad Hoc Intergovernmental Group on Container Standards at its session beginning November 1, 1976.

The Draft Regulations for the Implementation of the International Convention for Safe Containers.

Such other business as may arise.

Requests for further information on the meeting should be directed to Captain Charles E. Mathieu, United States Coast Guard. He may be reached by telephone on (area code 202) 426-1577.

The Chairman will entertain comments from the public as time permits

CARL TAYLOR, JR.,
Acting Director,
Office of Maritime Affairs.

NOVEMBER 9, 1976.

[FR Doc. 76-33589 Filed 11-12-76; 8:45 am]

[CM-6/134]

U.S. INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR) STUDY GROUP 5

Meeting

The Department of State announces that Study Group 5 of the U.S. National Committee of the International Radio Consultative Committee (CCIR) will meet on December 17, 1976, at 9:30 a.m. in the Aspen Room, Office of Telecommunications, Department of Commerce, 1325 G Street, N.W., Washington, D.C.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting on December 17 will be: Review of conclusions of the 1976 international meeting of Study Group 5, and establishment of U.S. work programs looking to the next international meeting in 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

NOVEMBER 9, 1976.

[FR Doc. 76-33590 Filed 11-12-76; 8:45 am]

[CM-6/130]

U.S. NATIONAL COMMITTEE FOR INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT) STUDY GROUP 1

Meeting

The Department of State announces that Study Group 1 of the U.S. CCITT National Committee will meet on December 9, 1976 at 10:00 a.m. in Room 511 of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. This Study Group deals with U.S.

Government regulatory aspects of international telegraph and telephone operations and tariffs.

The meeting will consider the development of U.S. positions to be taken at international CCITT meetings now scheduled for March, April and June, 1976 in Geneva, Switzerland. The topics to be discussed during the meeting will include aspects of mobile maritime service, leased channel service, public data service, telegraph operations and tariffs, sound and television program tariffs, general tariff principles, and consideration of monetary unit(s) to be applied in international telecommunication relations.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

ARTHUR L. FREEMAN,
Chairman,
U.S. CCITT National Committee.

NOVEMBER 5, 1976.

[FR Doc. 76-33583 Filed 11-12-76; 8:45 am]

[CM-6/131]

U.S. NATIONAL COMMITTEE OF INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT) STUDY GROUP 5

Meeting

The Department of State announces that Study Group 5 of the U.S. CCITT National Committee will meet on December 8, 1976, at 10:30 a.m. in Room 511 of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. This Study Group deals with matters in telecommunications relating to the development of the international digital data transmission services.

The agenda for the December 8 meeting will include consideration of the following:

1. Report of the Rapporteurs of CCITT Study Group VII on Recommendation X.25 (packet switching);
2. Review of proposed contributions to the next meeting of CCITT Study Groups VII and XVII;
3. Other business.

Members of the general public who desire to attend the meeting on December 8 will be admitted up to the limit of the meeting room.

ARTHUR L. FREEMAN,
Chairman,
U.S. National Committee.

NOVEMBER 8, 1976.

[FR Doc. 76-33584 Filed 11-12-76; 8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms FIREARMS

Granting of Relief

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from

disabilities imposed by Federal laws with respect to acquisition, transfer, receipt, shipment or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be dangerous to the public interest.

Armstrong, James Waytha, 1906 5th Street, Winthrop Harbor, Illinois, convicted on or about May 8, 1961, in the Municipal Court, Kenosha County, Wisconsin.

Bartholomew, Roger S., 3919 Midvale North, Seattle, Washington, convicted on June 5, 1963, in the Superior Court of the State of Washington, Snohomish County.

Bauer, Vernon W., Rural Route 2, Iroquois, South Dakota, convicted on March 5, 1942, in the District Court, Ninth Judicial District, County of Redwood, Minnesota.

Brooker, Edward L., 1119 S. Clifton Street, Philadelphia, Pennsylvania, convicted on November 26, 1969, in the Municipal Court, Philadelphia, Pennsylvania.

Campbell, Michael Patrick, 206 Erickson Street, Elroy, Wisconsin, convicted on January 30, 1974, in the Circuit Court, Juneau County, Wisconsin.

Caponigro, Phillip J., 40 Lakeland Avenue, Congers, New York, convicted on October 13, 1944, in the New York County Court, Bronx County.

Carley, Gerald W., 3211 57th Street, Des Moines, Iowa, convicted on July 15, 1955, in the District Court, Lynn County, Cedar Rapids, Iowa.

Carter, Garry Lee, Route 1, Box 558, Ronda, North Carolina, convicted on April 21, 1970, in the United States District Court, Wilkesboro, North Carolina.

Collins, Howard J., 629 Willow Avenue, Baltimore, Maryland, convicted on October 3, 1949, in the Court of General Sessions, Sussex County, Georgetown, Delaware.

Cordtz, Larry W., P.O. Box 812, Hayfork, California, convicted on October 4, 1968, in the Municipal Court, North County Judicial District, County of San Diego, California.

Cox, George LeRoy, 209 N. College Street, Marion, Kentucky, convicted on November 19, 1958, in the County Court of Jefferson County, Illinois.

Esparza, Jose A., 1476 27th Street, Nestor, California, convicted on September 18, 1972, in the United States District Court for Southern District of California, San Diego, California.

Essick, Tommy Franklin, Route 14, Box 448, Lexington, North Carolina, convicted on June 15, 1966, and on November 19, 1969, in the United States District Court, Middle Judicial District of North Carolina.

Etress, Alex Elwin, Route 1, Box 69, Shelby, Alabama, convicted on August 25, 1954, in the Circuit Court for Shelby County, Alabama.

Everard, Jerry J., 2401 Alabama, Joplin, Missouri, convicted on November 13, 1956, in the Circuit Court, Menominee County, Michigan.

Filibeck, John M., 630 South 14th Street, Bismarck, North Dakota, convicted on February 19, 1975, in the Superior Court, Anchorage, Alaska.

Gigante, Robert F., 3501 Woodhaven Road, 532 Elliot Building, Philadelphia, Pennsylvania, convicted on June 13, 1961, in the Court of Common Pleas of Philadelphia, Pennsylvania.

- Gore, Kearny Cornel, 2703 Teague #749, Houston, Texas, convicted on March 25, 1969, and on August 28, 1970, in the 180th District Court of Harris County, Texas; and on March 17, 1970, in the District Court of Montgomery County, Texas.
- Gray, John W., 304 Dale Avenue, Daingerfield, Texas, convicted on June 28, 1938, in the United States District Court for the Southern District of Alabama.
- Green, Bobby Joe, 850 Richards Road, Antioch, Tennessee, convicted on July 5, 1967, in the Criminal Court of Davidson County, Nashville, Tennessee.
- Hall, Jiles, U., 9160 W. Jefferson, Tolleson, Arizona, convicted on February 3, 1975, in the United States District Court for the District of Arizona.
- Hicks, Edward Albert, 2464 Swallow Circle, Atlanta, Georgia, convicted on June 16, 1964, in the United States District Court for the Northern District of Georgia.
- Hixon, Robert L., 201 Rawhide Way, Carson City, Nevada, convicted on May 11, 1966, in the United States District Court, Western District of Pennsylvania.
- Hogan, Steve J., Bend Route, Burns, Oregon, convicted on October 8, 1973, in the Circuit Court of the State of Oregon, County of Harney, Oregon.
- Hurd, Merle E., 96 Cimarron, Lake Elmo, Minnesota, convicted on or about June 25, 1959, in the District Court, Washington County, Minnesota.
- Kotek, Alvin J., Jr., 1627 Church Street, Baltimore, Maryland, convicted on May 14, 1963, in the Criminal Court, Baltimore, Maryland.
- Lamerson, Charles D., 9916 Julie Drive, Box 218, Ypsilanti, Michigan, convicted on October 26, 1964, in the United States District Court, El Paso, Texas; and on February 23, 1967, in the Washtenaw County Circuit Court, Ann Arbor, Michigan.
- Iaszlo, Stephen E., 25 Cranberry Street, Brooklyn, New York, convicted on February 9, 1973, in the United States District Court, Eastern District of New York.
- Lindell, Rexford L., 19024 E. Bloom Circle, Greenacres, Washington, convicted on June 30, 1961, and on May 29, 1962, in the Superior Court for the State of Washington, County of Spokane; and on March 20, 1964, in the United States District Court for the Middle District of Florida.
- Litton, Donald E., 101 Cherry, Alton, Missouri, convicted on April 15, 1958, and on November 3, 1958, in the Gasconade County Circuit Court, Hermann, Missouri; on August 21, 1961, in the Cole County Circuit Court, Jefferson City, Missouri; and on September 4, 1969, in the Osage County Circuit Court, Linn, Missouri.
- Lynch, Abraham Lincoln, Route 2, Box 203, Mill Springs, North Carolina, convicted on August 23, 1972, in the Superior Court, Polk County, North Carolina.
- McClun, Jerry E., Route 1, Epworth, Iowa, convicted on October 5, 1959, in the Jasper County District Court, Iowa.
- McCullum, John, 2057 Connecticut Street, Gary, Indiana, convicted on January 9, 1956, in the St. Joseph County Superior Court #2, South Bend, Indiana.
- Martin, Steve Henry, RFD #1, B6, Mountain View Estates, St. Johnsbury, Vermont, convicted on January 10, 1975, in the District Court of Vermont, Unit No. 4, Orleans Circuit.
- Morgan, Willard W., 118 Plum Street, Reading, Pennsylvania, convicted on December 15, 1964, in the Court of Oyer and Terminer and Quarter Sessions of the Peace, for the County of Berks, Pennsylvania; and on March 30, 1967, in the Berks County Court, Reading, Pennsylvania.
- Nantz, Glen L., 200 First Street, North Powder, Oregon, convicted on May 1, 1958, in the Circuit Court of the State of Oregon, for the County of Baker.
- Nichols, Lewis B., 3402 Heartwood Lane, Doraville, Georgia, convicted on December 6, 1974, in the United States District Court, Northern District of Georgia.
- Nowak, Henry Robert, 1400 Boren Avenue, Seattle, Washington, convicted on October 6, 1939, in the Superior Court for the State of Washington, King County, Seattle.
- Odum, Marvin J., 531 North G Street, Livingston, Montana, convicted on April 5, 1976, in the United States District Court, District of Montana, Billings Division.
- Olson, Nicholas A., 4189 LoBue Way, San Jose, California, convicted on August 21, 1962, in the Superior Court of the State of California, County of San Francisco.
- Pahlm, Roy W., Jr., 94 Jefferson Street, Lynn, Massachusetts, convicted on April 24, 1953, and on March 24, 1955, in the Essex County Superior Court, Massachusetts.
- Perry, Carl E., 1204 Ferry Street, Niles Michigan, convicted on August 10, 1962, in the United States District Court, Northern District of California, Southern Division.
- Pruitt, Ivan W., Route 6, Box 2, Cedartown, Georgia, convicted on October 21, 1935, and on September 8, 1938, in the District Court of the United States for the Eastern Division of the Northern District of Alabama; on or about September 22, 1970, in the United States District Court, Middle Division of the Northern District of Alabama; and on April 13, 1965, in the Cleburne County Court, Alabama.
- Quinn, Bonnie, Route 2, P.O. Box 93, Ferrum, Virginia, convicted on June 21, 1960, in the United States District Court, Western District, Virginia.
- Ramirez, Arthur N., 9233 17th Avenue, SW, Seattle, Washington, convicted on August 7, 1952, in the Superior Court of Washington, Yakima County.
- Rosen, Harvey F., 4409 Powell Avenue, Memphis, Tennessee, convicted on August 13, 1968, in the United States District Court, Eastern District of Tennessee, Northern Division, Knoxville, Tennessee.
- Schmieding, David W., 10374 Stark Road, Livonia, Michigan, convicted on November 9, 1965, in the District Court, Pueblo County, Colorado.
- Seybold, George Robert, 1812 Herrity Lane, Ionia, Michigan, convicted on or about October 23, 1961, in the Circuit Court, Jackson County, Michigan; and on March 6, 1962, in the United States District Court for the Eastern District of Michigan, Southern Division.
- Shank, Kenneth E., 1702 East Highway, Rapid City, South Dakota, convicted on June 11, 1973, in the Circuit Court, First Judicial Circuit, Vermillion, South Dakota.
- Shell, Robert M., Box 300G, Hartly, Delaware, convicted on January 30, 1967, in the Superior Court, Dover, Delaware.
- Small, Danny E., 2219 East Pleasant View Lane, Mustang, Oklahoma, convicted on April 29, 1958, in the District Court of Garfield County, Oklahoma.
- Soucy, Philip Anthony, N. 3306 Sargent, Spokane, Washington, convicted on December 18, 1958, in the Spokane County Superior Court, Spokane, Washington.
- Swan, Franklin O., Sr., P.O. Box 913, Lewiston, Maine, convicted on November 8, 1948, and on December 3, 1958, in the Superior Court, Androscoggin County, Maine.
- Thomas, Richard P., 1812 Pennsylvania Avenue, Charleston, West Virginia, convicted on or about July 8, 1960, in the Circuit Court, Kanawha County, West Virginia.
- Towery, Robert Emory, Old Greenbrier Highway, Greenbrier, Tennessee, convicted on November 3, 1972, in the United States District Court for the Middle District of Tennessee.
- Waites, Andrew O., 2131 NW. Glison, Portland, Oregon, convicted on February 12, 1969, in the Sixth Judicial District Court, Bannock County, Pocatello, Idaho.
- Wallace, Harley, Jr., 3189 Karth Road, White Bear Lake, Minnesota, convicted on March 19, 1969, and on November 26, 1969, in the District Court, Second Judicial District, Ramsey County, State of Minnesota.
- Wallander, John H., 3054 Grand Avenue, North, Minneapolis, Minnesota, convicted on May 21, 1958, in the Fourth Judicial District Court, Hennepin County, Minneapolis, Minnesota.
- Withauer, Edward D., 3000 Third Avenue, Council Bluffs, Iowa, convicted on April 21, 1970, in the District Court of Monona County, Onawa, Iowa; and on January 29, 1973, in the District Court of Pottawattmie County, Council Bluffs, Iowa.
- Wilson, James E., 422 North 39th Street, Omaha, Nebraska, convicted on July 21, 1952, in the District Court of Greene County, Jefferson, Iowa; on or about November 30, 1961, in the United States District Court for the District of Nebraska, Omaha; and on January 20, 1971, in the District Court of Nebraska, Lincoln.
- Yeager, Charles W., 410 N. Oak Street, Mt. Carmel, Pennsylvania, convicted on February 23, 1970, in the Court of Quarter Sessions of the Peace of Schuylkill County, Pottsville, Pennsylvania.
- Zollo, Phil R., 4515 14th Way, SE, Lacey, Washington, convicted on September 25, 1970, in the Superior Court of the State of Washington, in and for the County of Clark.

Signed at Washington, DC, this 4th day of November, 1976.

REX D. DAVIS,
Director, Bureau of
Alcohol, Tobacco and Firearms.

[FR Doc.76-33528 Filed 11-12-76;8:45 am]

Office of the Secretary

[Administrative Ruling 76-3]

ANTIRECESSION FISCAL ASSISTANCE

Time Limitation for Data Verification Requests

Section 52.23(c) of the interim regulations (31 CFR 52.23(c); 41 FR 44842) promulgated pursuant to Title II of the Public Works Employment Act of 1976 (Pub. L. 94-369), provides that a recipient government may file a request with the Office of Revenue Sharing for verification of the data used to make payments under the Act on the grounds that a processing error, such as typographical or computer programming mistake, was made in such data. The section provides that requests for data verification must be filed with the Director of the Office of Revenue Sharing within 21 days from the date of payment to a recipient government for the calendar quarter to which the data is applicable.

When the interim regulations were filed on October 8, 1976, it was the intention of the Office of Revenue Sharing to provide the data used to compute the allocations for the calendar quarters beginning July 1, 1976, and October 1, 1976,

to recipient governments at the same time that payments were made for those calendar quarters. Due to technical operational considerations, however, that data cannot be provided to recipient governments at the time payments are made for those calendar quarters.

Therefore, it is the determination of the Office of Revenue Sharing that requests for verification of the data used for Antirecession Fiscal Assistance payments for the calendar quarters beginning July 1, 1976, and October 1, 1976, will be considered timely pursuant to § 52.23(c) of the interim regulations if received by the Director within 21 days from the date that such data was mailed to the recipient government by the Office of Revenue Sharing.

Dated: November 12, 1976.

JEANNA D. TULLY,

Director,

Office of Revenue Sharing.

[FR Doc. 76-33853 Filed 11-12-76; 9:37 am]

[Legal Division Order No. 1 (Revised)]

LEGAL DIVISION

Organization and Functions

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 1009 and 26 U.S.C. 7801, by Department Circulars 519 of June 30, 1934, and 595 of September 13, 1938, and by Treasury Department Order No. 190 (Revised), I hereby define and prescribe the organization and functions of the Legal Division of the Treasury Department.

1. The Legal Division consists of a consolidated legal staff headed by the General Counsel, who is by statute the chief law officer of the Department of the Treasury, and is composed of all attorneys providing legal service in all offices and bureaus of the Treasury Department and all support personnel assigned to them. The legal staff provides legal advice to the Secretary of the Treasury and to the officers, offices and bureaus of the Department in accordance with the designations made by this Order. The General Counsel operates principally through a Deputy General Counsel, the Assistant General Counsels, the Chief Counsels, and the Legal Counsels listed herein, to whom delegations of specific authority are made by Legal Division Orders.

2. The General Counsel provides legal advice to the Secretary of the Treasury, the Deputy Secretary, the Under Secretaries, and the Assistant Secretaries on any legal matter which may arise within the Department. He supervises the Legal Division and establishes the policies, procedures, and standards governing its functioning.

3. The Deputy General Counsel is an Assistant General Counsel designated to serve as deputy and act as General Counsel in the absence of the General Counsel. The Deputy General Counsel reviews work prepared for the General Counsel

and supervises the day-to-day operation of the Legal Division. He receives on behalf of the General Counsel reports from the Assistant General Counsels and Chief Counsels, excepting the Assistant General Counsel who is the Chief Counsel of the Internal Revenue Service and the Assistant General Counsel—Tax Legislative Counsel who report directly to the General Counsel.

4. The Assistant General Counsel—Chief Counsel, Internal Revenue Service, is the legal adviser to the Commissioner of the Internal Revenue Service and supervises and directs the legal staff advising the Internal Revenue Service. He reports directly to the General Counsel.

5. The Assistant General Counsel—Tax Legislative Counsel is the legal adviser to the Assistant Secretary (Tax Policy) and provides advice concerning tax legislation, tax policy, and tax treaties. He reports directly to the General Counsel.

6. The Assistant General Counsel (International Affairs) provides legal advice to the Under Secretary (Monetary Affairs), the Assistant Secretary (International Affairs), the Assistant Secretary (Economic Policy), and the Special Assistant to the Secretary (National Security). He reports to the General Counsel through the Deputy General Counsel.

7. The Assistant General Counsel (Administration, Legislation, and Fiscal Operations) provides legal advice to the Assistant Secretary (Administration), the Fiscal Assistant Secretary, the Assistant Secretary (Legislative Affairs), the Assistant Secretary (Capital Markets and Debt Management), and to the Office of the Secretary generally with respect to administrative procedure and Department administration. He also serves as legal adviser to the Treasurer of the United States, the Special Assistant to the Secretary (Public Affairs), and to the U.S. Savings Bonds Division. He is in charge of the non-tax legislative activities of the Department. He supervises the Chief Counsel, Bureau of the Public Debt, the Chief Counsel, Office of Revenue Sharing, and the legal functions of the Director, Office of the Director of Practice. He reports to the General Counsel through the Deputy General Counsel.

8. The Assistant General Counsel (Enforcement, Operations, and Tariff Affairs), provides legal advice to the Assistant Secretary (Enforcement, Operations, and Tariff Affairs). He acts for the General Counsel in the supervision of all nontax litigation matters and tax litigation matters which arise out of the activities of the Bureau of Alcohol, Tobacco and Firearms requiring General Counsel action. He supervises the Chief Counsel, U.S. Customs Service, the Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms, the Chief Counsel of the Office of Foreign Assets Control, the Legal Counsel, Bureau of the Mint, the Legal Counsel, U.S. Secret Service, the Legal Counsel, Federal Law Enforcement Training Center, and the Legal Counsel, Bureau of Engraving and Printing. He reports to the General Counsel through the Deputy General Counsel.

9. The Counselor to the General Counsel assists the General Counsel and the Deputy General Counsel by undertaking special assignments pertaining to any area of responsibility in the Office of the General Counsel. He reports to the General Counsel through the Deputy General Counsel.

10. The Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, is the chief law officer for that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

11. The Chief Counsel, Office of the Comptroller of the Currency, is the chief law officer for that office and reports to the General Counsel through the Deputy General Counsel.

12. The Chief Counsel, United States Customs Service, is the chief law officer for that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

13. The Chief Counsel, Foreign Assets Control, is the chief law officer for that office and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

14. The Chief Counsel, Bureau of the Public Debt, is the chief law officer for that Bureau, and reports to the General Counsel through the Assistant General Counsel (Administration, Legislation, and Fiscal Operations) and the Deputy General Counsel.

15. The Chief Counsel, Office of Revenue Sharing, is the chief law officer for that Office, and reports to the General Counsel through the Assistant General Counsel (Administration, Legislation, and Fiscal Operations) and the Deputy General Counsel.

16. The Legal Counsel, Bureau of the Mint, provides legal advice to that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

17. The Legal Counsel, United States Secret Service, provides legal advice to that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

18. The Legal Counsel, Federal Law Enforcement Training Center, provides legal advice to that Center and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

19. The Legal Counsel, Bureau of Engraving and Printing, provides legal advice to that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

20. The Director of Practice (1) directs the legal functions performed in his of-

file and reports with respect to those functions to the General Counsel through the Assistant General Counsel (Administration, Legislation, and Fiscal Operations) and the Deputy General Counsel; (2) makes operating decisions in carrying out the responsibilities placed on him under 31 U.S.C. 1026 and by CFR Part 10 under the administrative supervision of the General Counsel exercised by the General Counsel or the Deputy General Counsel; and (3) serves as Executive Director of the Joint Board of Actuaries pursuant to Part 901, Chapter VIII of Title 20, CFR.

A change in title of any official in the Office of the Secretary shall not affect the foregoing assignments unless the change includes a change of function. The General may, without formal Order, reassign on a temporary basis a function of an Assistant General Counsel or the Counselor.

Effective: November 5, 1976.

RICHARD R. ALBRECHT,
General Counsel.

[FR Doc.76-33571 Filed 11-12-76;8:45 am]

[Legal Division Order No. 10]

LEGAL COUNSELS FOR BUREAU OF THE MINT, BUREAU OF ENGRAVING AND PRINTING, SECRET SERVICE, AND FEDERAL LAW ENFORCEMENT TRAINING CENTER

Delegation of Authority

Under the authority of 26 U.S.C. 7801 and 31 U.S.C. 1009 and Treasury Department Order No. 190 (Revised), I hereby delegate to the Legal Counsel for the Bureau of the Mint, the Legal Counsel for the Bureau of Engraving and Printing, the Legal Counsel for the U.S. Secret Service and the Legal Counsel for the Federal Law Enforcement Training Center, the following authority, subject to the review prescribed herein and in Legal Division Order No. 1 (Revised).

1. *Legal Advice.* (a) To serve as the legal adviser to the head of the bureau or office for which he is designated Legal Counsel and the officers and employees of that bureau or office. In fulfilling this function the Legal Counsel shall consult with and assist the head of the bureau or office and the officers and employees thereof with a view toward furthering the policies and programs of the Department of the Treasury.

(b) To furnish legal opinions and assist the head of the bureau or office and the officers and employees thereof in the preparation, review, and publication of rulings, interpretations, procedures, licenses, contracts and other authorizations as required under the laws administered by such bureau or office.

(c) To prepare, review, or assist in the preparation of proposed legislation, regulations, proclamations, and executive orders relating to the laws which affect or are enforced by the bureau or office.

(d) To advise upon or conduct any administrative proceedings necessary in the

administration of pertinent laws and regulations.

2. *Litigation.* (a) Subject to the limitation prescribed in (b) and such specific directions as the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) may provide in specific cases or categories of cases:

(1) To determine what civil action should be brought in the courts under the laws affecting and administered by the bureau or office and to prepare recommendations to the Department of Justice for the commencement of such action.

(2) To prepare appropriate recommendations to the Department of Justice for the prosecution of cases referred to the Legal Counsel by the head of the bureau or office.

(3) To determine how actions brought in the courts against the United States or officers or employees thereof should be conducted and to prepare recommendations to the Department of Justice with respect thereto, pertaining to cases within the jurisdiction of the bureau or office.

(4) To make the initial recommendation as to which court decisions should be appealed or further reviewed and to prepare recommendations to the Department of Justice with respect thereto.

(5) To cooperate with the Department of Justice or the United States Attorneys, and at their request, assist in conducting litigation in the courts, both civil and criminal, and in preparing briefs and arguments with respect thereto.

(b) Notwithstanding the foregoing authority, correspondence with the Department of Justice shall be prepared for the signature of the Assistant General Counsel (EOTA).

3. *Personnel.* (a) To supervise and evaluate the work of all officers and employees of the Legal Counsel's office and to make necessary recommendations with respect to all personnel matters pertaining thereto to the General Counsel.

(b) To be responsible to the General Counsel for the establishment and maintenance of appropriate standards of practice and for the professional competence and evaluation of the work of the attorneys in his office.

(c) To act under the appropriate personnel directives in recommending personnel actions with respect to employees other than attorneys.

4. *Organization.* (a) To recommend to the General Counsel such organizational arrangements in the Legal Counsel's office as may be advisable.

(b) Subject to approval of the General Counsel, to redelegate any of the authority delegated in this Order to any officer or employee of the Office of Legal Counsel.

Effective: November 5, 1976.

RICHARD R. ALBRECHT,
General Counsel.

[FR Doc.76-33572 Filed 11-12-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 189]

ASSIGNMENT OF HEARINGS

NOVEMBER 10, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141853, M. A. Creekmore And Jasper V. Bennett, dba C-B-C Transport Company, now being assigned January 18, 1977 (2 weeks), at Jackson, Miss., in a hearing room to be later designated.

MC 101186 Sub 14, Arledge Transfer, Inc., now being assigned January 11, 1977 (9 days), at Des Moines, Iowa, in a hearing room to be later designated.

MC 139614 (Sub 1), Erin Torus, Inc., now being assigned January 26, 1977 (3 days), for continued hearing at New York, New York in a hearing room to be later designated.

MC 135732 (Sub 22), Aubrey Freight Lines, Inc. now being assigned January 24, 1977 (2 days), at New York, New York in a hearing room to be later designated.

I & S M 29129, Joint Routings and Pickup or Delivery Within Commercial Zones, now assigned November 29, 1976, at Washington, D.C., is cancelled. The rates are being cancelled.

MC 141701, D & P Trucking, Inc., now assigned December 6, 1976 at New York, New York; will be held in Room E-2222 Federal Building, 26 Federal Plaza.

MC 135684 (Sub-No. 19), Bass Transportation Co., Inc., now assigned December 7, 1976 at New York, New York; will be held in Room E-2222 Federal Building, 26 Federal Plaza.

MC 141675 (Sub-No. 1), Economy Trucking Service, Inc., now assigned December 9, 1976 at New York, New York; will be held in Room E-2222 Federal Building, 26 Federal Plaza.

MC 136786 (Sub 91), Robco Transportation, Inc. now being assigned January 17, 1977 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 2359 (Sub 23), Dameo, Inc. now being assigned December 13, 1976 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 9859 (Sub-No. 3), Kane Transfer Company, now assigned December 14, 1976 at Salisbury, Maryland; will be held in Room 106 Government Office Building.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.76-33647 Filed 11-12-76;8:45 am]

[Notice No. AB 83; Sub-No. 2]

MAINE CENTRAL RAILROAD CO.
Abandonment of Railroad Services

OCTOBER 29, 1976.

The Interstate Commerce Commission hereby gives notice that its Environmental Affairs Staff has concluded that the proposed abandonment by the Southern Pacific Transportation Company of its line between Livermore Falls and Farmington, a distance of 26.5 miles, in Androscoggin and Franklin Counties, Maine, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2) (C) of the NEPA.

It was concluded, among other things, that the associated environmental impacts are considered insignificant because the line has not been in operation since May 1974, and no local traffic movements are involved. In addition, there are no community development, historic, or ecological effects involved. However, significant interest in acquiring the subject right-of-way upon abandonment has been expressed by several local agencies and public interest groups. Consequently a condition has been imposed recommending that the subject right-of-way, track, and all underlying structures remain in tact for a period of 180 days so that public interest groups may negotiate for purchase of the subject line.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before December 13, 1976.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
 Secretary.

[FR Doc. 76-33649 Filed 11-12-76; 8:45 am]

[Notice No. 66]

MOTOR CARRIER BOARD TRANSFER
PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and

freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before December 15, 1976. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named, and the protestant must certify that such service has been made).

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76732, filed November 8, 1976. Transferee: Affiliated Van Lines, Inc., 2124 Washington St., Lawton, Okla. 73501. Transferor: Southwest Van Lines, Inc., No. 4 Camelot Drive, Lawton, Oklahoma 73501. Applicants' representative: Charles J. Kimball, Attorney-at-Law, Room 350, 1600 Sherman St., Denver, Colorado 73501. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC 135198 (Sub-No. 2) and MC 135198 (Sub-No. 3), issued by the Commission March 2, 1972, and July 14, 1971, respectively, as follows: Household goods, as defined by the Commission, between points in Carter County, Okla., on the one hand, points in Texas; and used household goods, between points in Comanche, Kiowa, Caddo, McLain, Carter, Grady, Garvin, Murray, and Stephens Counties, Okla., subject to specified restrictions. Transferee is a carrier holding authority from this Commission under Certificate No. MC 141364. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76804, filed October 27, 1976. Transferee: Equipment Express Limited, 8105 Don Mills Road, Markham, Ontario, Canada L3R 2P1. Transferor: Woods & Son Transport Ltd., Leon Friedman, Trustee in Bankruptcy, 5005 Irwin Avenue, LaSalle, Quebec, Canada. Applicants' representative: Thomas E. Acey, Jr., Attorney-at-Law, Suite 1100, 1660 L St., NW, Washington, D.C. 20036. Au-

thority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 125497 (Sub-No. 3), MC 125497 (Sub-No. 9), and MC 125497 (Sub-No. 13), issued by the Commission July 17, 1970, August 14, 1970, and July 20, 1973, respectively, as follows: Commodities which because of size or weight require the use of special equipment, between specified points of entry on the International Boundary Line between the United States and Canada, located in New York, Michigan, Vermont, and Maine, and specified points in New York, Michigan, Vermont, and Maine; pre-stressed and pre-cast concrete panels and structural members, from ports of entry on the United States-Canada Boundary line at Norton, Derby Line and Highgate Springs, Vt., and Rouses Point, Champlain, and Trout River, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont, and points in Pennsylvania and New Jersey. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76805, filed October 28, 1976. Transferee: Century Motor Freight, Inc., 607 Howard Street, Mount Vernon, Oh. 43050. Transferor: Jesco Motor Express, Inc., 162 Columbus Rd., Mount Vernon, Oh. 43050. Applicant's representative: A. Charles Tell, Attorney at Law, 100 East Broad Street, Columbus, Oh. 43215. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 17211 and Sub 7 and Sub 8, issued, July 9, 1965, February 24, 1969, and September 23, 1969 respectively as follows: *Empty glass containers*, over irregular routes, from Mount Vernon, Ohio, to Grafton, W. Va., and points within two miles of Grafton, Ashland, Louisville, Newport, and Covington, Ky.; that part of Kentucky within five miles of Covington, points in Michigan, that part of Pennsylvania west of U.S. Highway 19, a specified portion of West Virginia, and a specified portion of Indiana. From Mt. Vernon, Ohio to St. Louis, Mo., and points in Missouri within ten miles of St. Louis; those in that part of Illinois north of U.S. Highway 40; those in a specified part of Indiana. *Rejected or damaged shipments of empty glass containers*, from St. Louis, Mo., and points in the immediately above-specified Missouri, Illinois, and Indiana territories including those points excepted immediately above, to Mt. Vernon, Ohio. *Empty glass containers*, from Mount Vernon, Ohio, to points in Iowa, Missouri, (except St. Louis and points within ten miles thereof), Kentucky (except Ashland, Louisville, Newport, Covington, and points within ten miles of Covington), Minnesota, Tennessee, Virginia, Wisconsin, points in Pennsylvania on and east of U.S. Highway 19 (except Philadelphia), and specified points in West Virginia. *Cullett and damaged shipments of empty glass containers*, from the immediately above-specified destination points to Mount Vernon, Ohio.

Cullet, from Ashland, Louisville, Newport, and Covington, Ky., and points in Kentucky within five miles of Covington; Grafton, W. Va., and points within two miles of Grafton; St. Louis, Mo., and points in Missouri within ten miles of St. Louis; points in Michigan; those in that part of Pennsylvania west of U.S. Highway 19; those in that part of Illinois north of U.S. Highway 40; those in a specified part of West Virginia and those in a specified part of Indiana, to Mt. Vernon, Oh. *Empty glass containers*, under contracts with the Chattanooga Glass Co. from Columbus and Shelby, Ohio, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Pennsylvania (except Philadelphia), Tennessee, Virginia, West Virginia, and Wisconsin. *Paper, pulpboard*

products, fiberboard products, and equipment, materials and supplies used in the manufacturing and shipping of the named commodities (except commodities in bulk and except building materials), under contracts with the Weyerhaeuser Co. From Mount Vernon, Ohio, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Pennsylvania, and West Virginia, transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210 a(b).

No. MC-FC-76806, filed October 28, 1976. Transferee: Ikeda International Corp., 30 West 47th Street, New York, N.Y. 10036. Transferor: Sidney Spalding, DBA, Spalding Movers, 60 Sherman Ave., Bronx, N.Y. 10040. Applicants' rep-

resentative(s): Alvin Altman, Attorney at Law, 1776 Broadway, New York, N.Y. 10019. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-42849, issued October 21, 1965, as follows: Household goods as defined by the Commission between New York, N.Y., on the one hand, and, on the other, points in New York, New Jersey, Connecticut, Pennsylvania, Massachusetts, Rhode Island, Delaware, and Maryland. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.76-33648 Filed 11-12-76; 8:45 am]

federal register

MONDAY, NOVEMBER 15, 1976



PART II:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**Office of Assistant Secretary
for Community Planning
and Development**



COMMUNITY DEVELOPMENT BLOCK GRANTS

**Proposed Program Management
Regulations**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[24 CFR Part 570]

[Docket No. R-76-292]

COMMUNITY DEVELOPMENT BLOCK GRANTS

Proposed Program Management Regulations

On June 9, 1975, the Department of Housing and Urban Development published in the *FEDERAL REGISTER* (40 FR 24692) the consolidated rules and regulations governing the community development block grant program. Subpart J of 24 CFR Part 570 is entitled Program Management and sets forth performance standards for carrying out the block grant program, reporting and recordkeeping requirements, the basis for HUD's review of recipient performance, and policies and procedures for applying sanctions and other remedies for non-compliance.

Notice is hereby given that HUD proposes to amend Subpart J of 24 CFR Part 570 to incorporate a number of technical and substantive amendments.

1. Section 570.909 describes the Secretary's review of a recipient's annual performance. Paragraph (a) is amended to set forth the objectives of the Secretary's review and to make clear that the review of a recipient's annual performance will serve as the basis for sanctions or other corrective or remedial actions described in § 570.913.

2. Paragraph (b) of § 570.909 provides that the Secretary will review the performance of entitlement recipients at least annually and the performance of discretionary recipients either prior to making a subsequent discretionary grant or prior to making final payment on a grant.

3. Paragraph (c), of § 570.909 is revised to set forth the basis, or factors to be considered, in the Secretary's review.

4. Paragraphs (d) and (e) of § 570.909 represent essentially new material not presently included in the regulations. Paragraph (d) governs review of the Community Development Program and paragraph (e) governs review of the housing assistance plan.

Section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) sets forth three determinations to be made by the Secretary (also included in paragraph (a) of § 570.909): "whether the grantee has carried out a program substantially as described in its application, whether that program conformed to the requirements of this title and other applicable laws, and whether the applicant has a continuing capacity to carry out in a timely manner the approved Community Development Program." In the first two instances the word "program" is in lower case, but in the third instance the phrase "Community Development Program" is used.

Section 102(a)(12) of the Act states that "The term 'Community Development Program' means a program described in section 104(a)(2)," which is the program of activities to be undertaken. The Act does not, however, define the term "program." These regulations therefore provide that the first two Secretarial determinations apply to both the Community Development Program and the housing assistance plan, but that the third determination regarding a recipient's continuing capacity applies only to the Community Development Program.

5. Paragraph (d) of § 570.909 describes how the Secretary will review a recipient's performance in carrying out the approved Community Development Program. The first Secretarial determination—"whether the grantee has carried out a program substantially as described in its application"—consists of two parts: whether the recipient has made substantial progress in carrying out approved activities and whether the activities undertaken conform substantially to the Community Development Program described in the application.

The second Secretarial determination is whether the program conformed to the requirements of the Act, the block grant regulations, and other applicable laws and regulations. Four different kinds of noncompliance are cited. While the examples are not intended to cover the spectrum of possible noncompliances, they are representative of typical noncompliances that may arise.

The third Secretarial determination regarding a recipient's continuing capacity to carry out the approved Community Development Program is based on the foregoing factors of substantial progress, conformance with the approved Community Development Program, and compliance with applicable laws and regulations. In determining whether a recipient lacks a continuing capacity, particular attention will be given to efforts of the recipient to accelerate the progress of planned activities and/or to prevent the recurrence of past instances of noncompliance.

In each instance, the appropriate sanction for failure to meet one or more of the review standards is identified.

6. Paragraph (e) of § 570.909 describes how the Secretary will review a recipient's performance in carrying out the HUD approved housing assistance plan (HAP). In the case of the HAP, substantial progress will be reviewed in terms of achieving the goals of the HAP; conformance with the HAP will be reviewed in terms of the type of housing to be assisted, the households to be assisted, and the general locations set forth in the HAP, and compliance will be reviewed in terms of compliance with applicable laws and regulations. In making the appropriate determinations, particular attention will be directed to whether the recipient has taken those actions within its control to carry out the HAP.

7. Section 570.911 is reviewed to expand the sanctions and remedial actions that HUD may take. Paragraph (a) states that, based on the Secretary's review of a recipient's annual performance, the annual grant may be adjusted for a succeeding program year. The amount of adjustment may be down to an entitlement amount of zero for a succeeding program year. Also, it provides that a recipient shall have the right to an informal consultation prior to a reduction in the annual grant.

Paragraph (b) establishes other corrective and remedial actions that may be taken at any time as a result of a recipient's nonconformance with the approved program or noncompliance with the Act, these regulations, and other applicable laws and regulations.

8. Paragraph (b) of § 570.913 is amended by adding language which authorizes the Secretary to revoke a recipient's letter of credit in whole or in part, pending further proceedings and final action under § 570.913.

Additional revisions to Subpart J involving changes to § 570.900, performance standards, covering equal opportunity and relocation will be issued in the near future.

Interested persons are invited to participate in the making of the final rule by submitting written comments or views on the proposed amendments. Comments should be filed with the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. All relevant materials received on or before December 16, 1976, will be considered before adoption of final rules. Copies of comments will be available for examination during business hours at the above address. In connection with the environmental review of the proposed amendments to Subpart J, a Finding of Inapplicability has been made under HUD Handbook 1390.1, (38 FR 19182). A copy of the Finding is available for inspection in the Office of the Rules Docket Clerk, at the above address.

It is hereby certified that the economic and inflationary impacts of these proposed regulations have been carefully evaluated in accordance with OMB Circular No. A-107.

Authority. Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), and Section 7(d), Department of HUD Act (42 U.S.C. 3535 (d)).

In consideration of the foregoing, it is proposed to amend 24 CFR Part 570, Subpart J, as follows:

1. Section 570.909 is revised to read as follows:

§ 570.909 Secretarial review of recipient's performance.

(a) **Objective.** The Secretary will review each recipient's performance to determine whether:

(1) the recipient has carried out a program substantially as described in its application (see paragraph (d)(1).

(d) (2), (e) (1), and (e) (2) of this section);

(2) that program complied with the requirements of the Act, this Part, and other applicable laws and regulations (see paragraphs (d) (3) and (e) (3) of this section);

(3) the recipient has a continuing capacity to carry out in a timely manner the approved Community Development Program; (see paragraph (d) (4) of this section); and

(4) sanctions or other corrective or remedial actions described in § 570.911 are appropriate as a result of the above determinations.

(b) *Timing of review.* The Secretary's review of each entitlement recipient's performance will take place at least on an annual basis and, where possible, prior to approval of the succeeding year's entitlement application. The Secretary's review of a discretionary recipient's performance will take place prior to approval of a subsequent discretionary grant to the same recipient and, in the case of other discretionary recipients, prior to making final payment on the grant.

(c) *Basis for review.* In reviewing each recipient's annual performance the Secretary will consider all available evidence which may include, but need not be limited to, the following:

(1) The approved block grant application and any amendments thereto;

(2) Reports prepared by the recipient including the annual performance report described in § 570.906;

(3) Records maintained by the recipient pursuant to § 570.907;

(4) Results of HUD's monitoring of recipient performance;

(5) Audit reports whether conducted by the recipient or by HUD auditors;

(6) Records of drawdowns on the letter of credit;

(7) Evidence of progress in the provision of housing assistance in accordance with goals in the housing assistance plan;

(8) Records of complaints or litigation.

(d) *Review of community development program.* The Secretary's review of a recipient's performance in carrying out the approved Community Development Program will include the following factors:

(1) *Substantial progress.* HUD will review a recipient's progress in carrying out approved activities and will take into account such factors as expenditure of funds, obligation of funds, award of third party contracts, and other measures of progress. While HUD will not establish arbitrary numerical or percentage standards for measuring progress, HUD will compare a recipient's progress with that of other recipients of comparable size with similar activities and grant amounts.

(i) If a recipient's progress lags substantially behind that of other similar recipients, further reviews may be conducted to determine the reasons for a lack of progress and the recipient may be requested to:

(A) Submit additional information concerning the administrative, planning, budgeting, management, and evaluation functions of the recipient to determine the reasons for the lack of progress;

(B) Explain any actions being taken to correct or remove the causes for delay, including any factors which may be beyond the control of the recipient; and

(C) Submit progress schedules for completing approved activities.

(ii) If a recipient's progress lags substantially behind that of other recipients of comparable size with similar activities and grant amounts for reasons within the control of the recipient, and the recipient has not taken actions to correct or remove the causes for delay, the Secretary may make an appropriate adjustment in the recipient's entitlement grant amount for the succeeding program year as provided in § 570.911(a).

(2) *Conformance with approved program.* HUD will review a recipient's performance to determine whether the activities undertaken during the period under review conform substantially to the Community Development Program described in the application, including any amendments thereto approved by HUD pursuant to § 570.305.

(i) The review may include whether any activities that were undertaken which were not included in the approved Community Development Program, or any amendments thereto, are eligible under § 570.200, conform to the certification under § 570.303(e) (6), and are within amounts not requiring prior HUD approval pursuant to § 570.305.

(ii) HUD's review of activities for conformance with the approved Community Development Program will not include new determinations of eligibility, except where such activities deviate substantially from those described in the application.

(iii) If HUD's review indicates that the activities undertaken by the recipient are not substantially as described in the application, the Secretary may take any of the actions authorized in § 570.911, as appropriate to the circumstances.

(3) *Compliance.* HUD will review a recipient's performance in carrying out approved activities to determine whether the program complied with the requirements of the Act, this Part, and other applicable laws and regulations. Noncompliance may be of several different kinds and include the following examples:

(i) *Denial of a benefit or payment to an individual, business or organization.* Examples of this type of noncompliance include failure to pay proper wage rates in accordance with the Davis-Bacon Act, as required by § 570.605, or failure to make proper relocation payments, as required by § 570.602. In such cases, the recipient will be expected to correct the violation by making restitution to the affected party. Failure to take prompt remedial action will result in either an adjustment in the entitlement grant amount for the succeeding program year

or a condition on the approval of the succeeding program year application, as provided in § 570.911.

(ii) *Violations which can be corrected.* An example of this type of noncompliance is where a recipient has requested a release of funds without having carried out the procedural requirements of other laws and regulations applicable to the activity to be undertaken. In such a case, the recipient will be expected to initiate the actions required by other applicable laws and regulations prior to submitting a new request for a release of funds. Another example is where a recipient has contracted with a local agency that has been found in violation of Title VI of the Civil Rights Act of 1964. Failure to promptly correct the violation may result in one of the actions authorized in § 570.911(b). If the violation is not corrected and is subsequently repeated after proper notice to the recipient, the Secretary will either adjust the entitlement grant amount for the succeeding program year or condition the approval of the succeeding program year application, as provided in § 570.911.

(iii) *Violations which cannot be corrected.* An example of this type of noncompliance is the demolition of a structure without meeting the environmental review requirements of 24 CFR Part 58. In such a case, the Secretary may take any of the actions set forth in § 570.911, as appropriate to the circumstances.

(iv) *Violations affecting the program as a whole.* An example of this type of noncompliance is the failure to obtain an audit pursuant to § 570.509. If the violation can be remedied or mitigated, such as by promptly obtaining an audit, the recipient will be expected to promptly take such an action. In such cases, the Secretary may take any of the actions authorized in § 570.911, as appropriate to the circumstances.

(4) *Continuing capacity.* HUD will review a recipient's performance to determine whether the recipient has a continuing capacity to carry out the approved Community Development Program. The primary factors to be considered in arriving at a determination that a recipient has a continuing capacity are those described in paragraphs (d) (1) through (d) (3) of this section.

(i) If the Secretary determines that the recipient has made substantial progress in carrying out approved activities, that the activities undertaken conformed substantially to the Community Development Program described in the application, and that the program was carried out in compliance with the Act, this Part, and other applicable laws and regulations, the recipient will be considered to have a continuing capacity.

(ii) A determination that a recipient lacks a continuing capacity may be based on any single one, or any combination, of the factors in § 570.909(d) (1)-(d) (3). Particular attention will be given to efforts of the recipient to accelerate the progress of planned activities and/or to

prevent the recurrence of past instances of nonconformance with the Community Development Program or noncompliance with applicable laws and regulations. If the Secretary determines that a recipient lacks a continuing capacity to carry out in a timely manner the approved Community Development Program, the Secretary may make an appropriate adjustment in the entitlement grant amount for the succeeding program year as provided in § 570.911(a).

(e) *Review of Housing Assistance Plan (HAP).* The Secretary's review of a recipient's performance in carrying out the HUD-approved HAP will include an analysis of the following factors:

(1) *Substantial progress.* HUD will review the recipient's progress in achieving the one-year and three-year goals for housing assistance contained in the most recently approved HAP. A failure to achieve HAP goals may be affected by factors not within the control of the recipient. However, HUD will consider the extent to which actions within the control of the recipient have been taken to achieve HAP goals. Such actions may include:

(i) The removal of impediments under local ordinances and land use requirements to the development of assisted housing;

(ii) The formation of a local housing authority or execution of an agreement with a housing authority having powers to provide assisted housing within the jurisdiction of the applicant, when necessary to carry out the housing assistance plan;

(iii) The provision of sites or improvements to sites for assisted housing when resources are available; and

(iv) Other actions appropriate for implementation of the housing assistance plan.

If the recipient has not substantially achieved its HAP goals, or has not taken those actions within its control to achieve HAP goals, the Secretary may make an appropriate adjustment in the entitlement grant amount for a succeeding program year, as authorized in § 570.911(a).

(2) *Conformance with HAP.* HUD will review a recipient's performance to determine whether the housing assistance provided conforms to the type of housing to be assisted (new construction, rehabilitation or use of existing housing), the households to be assisted, and the general locations as set forth in the HAP. This review shall also take into consideration the regulations implementing Section 213 of the Act as set forth in Part 891 of this title. If the housing assistance provided does not conform to the approved HAP, the Secretary may take any of the actions in § 570.911, as appropriate to the circumstances.

(3) *Compliance.* HUD will review a recipient's performance in carrying out its HAP to determine whether the housing assistance provided complied with the requirements of the Act, this Part and other applicable laws and regulations. If the recipient's performance is not in compliance with the Act, this Part or other applicable laws or regulations, the Secretary may take any of the actions authorized in § 570.911 as appropriate to the circumstances.

2. Section 570.911 is revised to read as follows:

§ 570.911 Sanctions and remedial actions.

When the Secretary determines on the basis of a review of a recipient's performance under § 570.909, that the objectives set forth in § 570.909(a) have not been met, the Secretary will take one or more of the actions authorized in this section. In each instance, the action taken will be designed to, first, present a continuance of the deficiency (lack of performance, nonconformance, noncompliance, lack of capacity); second, mitigate any adverse effects or consequences of the deficiency to the extent possible under the circumstances; and third, prevent a recurrence of the same or similar deficiencies.

(a) *Adjustment of annual grant.* When the Secretary determines on the basis of a review of an entitlement recipient's performance, that the objectives set forth in § 570.909(a) have not been met, the Secretary may at the time of a succeeding year's application, take any of the following actions:

(1) If the Secretary determines that there is either a lack of substantial progress pursuant to §§ 570.909(d)(1) or (e)(1), or a lack of continuing capacity pursuant to § 570.909(d)(4), the Secretary may make an appropriate adjustment in the entitlement grant amount for a succeeding program year.

(2) If the Secretary determines that the activities undertaken have not conformed to the approved program pursuant to §§ 570.909(d)(2) or (e)(2), or that the recipient has not complied with the Act, this Part, or other applicable laws or regulations, pursuant to §§ 570.909(d)(3) or (e)(3), and the recipient has failed to remedy or correct the nonconformance or noncompliance, the Secretary may either make an appropriate adjustment in the entitlement grant amount for the succeeding program year, or condition the approval of the succeeding program year, or condition the approval of the succeeding program year application as provided in § 570.306, or both.

(b) *Other corrective and remedial actions.* Whenever the Secretary determines, pursuant to a review of a recipient's performance under § 570.909, that either an entitlement recipient or a discretionary recipient has undertaken activities that did not conform to the approved program or has not complied with the Act, this Part, or other applicable laws or regulations, the Secretary may, at any time and in addition to the sanctions authorized in paragraph (a) of this section, take any of the following actions:

(1) Issue a letter of warning that advises the recipient of the nonconformance and puts the recipient on notice that more serious remedial or corrective actions will be taken if the noncompliance is repeated.

(2) Advise the recipient that a certification will no longer be acceptable and that additional information or assurances will be required;

(3) Advise the recipient to suspend, discontinue or not incur costs for the affected activity;

(4) Advise the recipient to reprogram funds from affected activities to other eligible activities;

(5) Advise the recipient to reimburse the recipient's program account or letter of credit in any amounts improperly expended;

(6) Change the method of payment for a succeeding program year from a letter of credit basis to a reimbursement basis;

(7) Adjust the recipient's annual grant by up to the amount conditionally approved pursuant to § 570.306(e) where such condition or conditions have not been satisfied; or

(8) Take any of the actions called for in §§ 570.912 or 570.913.

3. In § 570.913, paragraph (b) is revised to read as follows:

§ 570.913 Other remedies for noncompliance.

(b) *Secretarial actions on payments.* If the Secretary finds a recipient has failed to comply substantially with any provision of this Part, he may, provided his finding of failure to comply is made after reasonable notice and opportunity for hearing:

(1) Terminate payments to the recipient; or

(2) Reduce payments to the recipient by an amount equal to the amount of such payments which were not expended in accordance with this Part; or

(3) Limit the availability of payments to programs, projects, or activities not affected by such failure to comply. Provided, however, that the Secretary may on due notice revoke the recipient's letter of credit in whole or in part at any time after the initial finding of failure to comply, pending such hearing and a final decision of the Department, to the extent the Secretary determines such action is warranted.

tion necessary to preclude the further expenditure of funds for activities affected by such failure to comply. During such revocation, the recipient's method of payment shall be changed to a reimbursement basis.

The following regulations govern the procedure and practice requirements involving adjudications where the Secre-

tary desires to take action requiring reasonable notice and opportunity for hearing. The regulations in this Part shall be liberally construed to secure just, expeditious, and efficient determination of the issues presented. The Administrative Procedure Act (5 U.S.C. 551 et seq.) where applicable shall be a guide in any situation not provided for or controlled by

this subpart, but shall be liberally construed or relaxed when necessary.

* * * * *

Dated: November 9, 1976.

WARREN H. BUTLER,
*Acting Assistant Secretary for
Community Planning and De-
velopment.*

[FR Doc. 76-33554 Filed 11-12-76; 8:45 am]

federal register

MONDAY, NOVEMBER 15, 1976



PART III:

OFFICE OF MANAGEMENT AND BUDGET



CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

November 1976

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals November 1976

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of November 1, 1976, of the 4 rescissions and 33 deferrals contained in the first three special messages transmitted to the Congress for fiscal year 1977. These messages were transmitted to the Congress on July 29, September 22, and October 1, 1976.

RESCISSIONS (TABLE A AND ATTACHMENT A)

Three rescissions totalling \$89.1 million in FY 1977 budget authority are

presently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of November 1, 1976. Attachment A shows the history and status of each rescission proposed for fiscal year 1977.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of November 1, 1976, \$633.5 million in 1977 budget authority was being deferred from obligation and another \$95.3 million in 1977 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President. Attachment B shows the history and status of each deferral proposed during fiscal year 1977.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTER of:

Tuesday, August 3, 1976 (Vol. 41, No. 150, Part VI).
Thursday, September 23, 1976 (Vol. 41, No. 188, Part III).
Thursday, October 7, 1976 (Vol. 41, No. 196, Part IV).

JAMES T. LYNN,
Director.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

NOVEMBER 10, 1976.

Honorable NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C. 20510.

DEAR MR. PRESIDENT: In accordance with Executive Order 11845, I am transmitting the cumulative report required by Section 1014 (e) of the Congressional Budget and Impoundment Control Act of 1974. In accordance with that Act, the report is also being transmitted to the House and will be published in the FEDERAL REGISTER.

Sincerely yours,

JAMES T. LYNN,
Director.

TABLE A

STATUS OF 1977 RESCISSION PROPOSALS

	Amount (in millions of dollars)
Rescissions proposed by the President.....	134.1
<u>Accepted by the Congress</u>	---
<u>Rejected by the Congress</u>	45.0
<u>Pending before the Congress:</u>	
(Special Message #2, transmitted September 22, 1976).....	89.1

* * * * *

TABLE B

STATUS OF 1977 DEFERRALS

	Amount (in millions of dollars)
Deferrals proposed by the President.....	761.7
<u>Routine Executive releases</u>	32.9
<u>Overtaken by the Congress</u>	---
<u>Currently before the Congress</u>	728.8 ^{1/}

^{1/} Includes \$95.3 million of outlays in two Treasury deferrals -- D77-26 and D77-27.

ATTACHMENT A

STATUS OF RESCISSIONS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

As of November 1, 1976

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of Defense-- Civil							
Corps of Engineers-- Civil:							
Revolving fund	R77-2	6,600	09-22-76				
Department of the Interior-- Bureau of Mines:							
Helium fund	R77-3	47,500	09-22-76				
Department of Transportation-- Federal Highway Administration:							
Highway crossing	R77-4	35,000	09-22-76				
Federal projects							
Other Independent Agencies-- Legal Services Corporation:							
Payment to the Legal Services Corporation	R77-1	[45,000] 2/	07-29-76			45,000	10-01-76
TOTAL		89,100				45,000	

1/ These funds were released October 1, 1976. A supplementary report withdrawing the proposed rescission will be transmitted to the Congress.

2/ These funds were not withheld during the 45-day Congressional consideration period.

Attachment B

B-1

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Funds Appropriated to the President

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases Resulting From Subsequent Actions Taken by		Adjustments	Amount Deferred as of 11-01-76
				OMB/Agency	House Senate		
Emergency Refugee and Migration Assistance Fund	D77-1	8,640	10-01-76 10-28-76	-1,000			7,640
TOTAL		8,640		-1,000			7,640

B-2.

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Agriculture

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	OMB/Agency	House	Senate	Releases Resulting From Subsequent Actions Taken by	Adjustments	Amount Deferred as of 11-01-76
Foreign Agricultural Service									
Salaries and expenses (Special foreign currency program)	D77-2	1,610	10-01-76						1,610
Agricultural Stabilization and Conservation Service									
Commodity credit corporation administrative expenses	D77-3	2,919	10-01-76						2,919
Forest Service									
Expenses, brush disposal	D77-4	22,321	10-01-76						22,321
Licensee programs	D77-5	146	10-01-76						146
TOTAL		26,996							26,996

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Senate	Adjustments	Amount Deferred as of 11-01-76
National Oceanic and Atmospheric Administration								
Promote and develop fishery products and research pertaining to American fisheries	D77-6	1,771	10-01-76					1,771
Fisheries loan fund	D77-7	5,799	10-01-76					5,799
Offshore shrimp fisheries fund	D77-8	59	10-01-76					59
Fishermen's guaranty fund	D77-9	356	10-01-76					356
TOTAL		7,985						7,985

NOTICES

50387

B-4

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Senate	Adjustments	Amount Deferred as of 11-01-76
Military contruction, all services	D77-10	76,483	10-01-76					76,483
TOTAL		76,483						76,483

B-5

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency House Senate	Adjustments	Amount Deferred as of 11-01-76
Panama Canal						
Canal Zone Government:						
Capital outlay	D77-11	146	10-01-76			146
Miscellaneous Accounts						
Wildlife conservation,						
etc., military						
reservations	D77-12	363	10-01-76			363
TOTAL		509				509

B-6

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 11-01-76
Office of the Assistant Secretary for Health Scientific activities overseas (Special foreign current program)	D77-13	1,113	10-01-76					1,113
Office of Education Higher education	D77-14	31,702	10-01-76					31,702
Social Security Administration Limitation on construction	D77-15	17,272	10-01-76					17,272
TOTAL		50,087						50,087

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Current	Date of Action	OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Senate	Adjustments	Amount Deferred as of 11-01-76
Bureau of Land Management Oregon and California grant lands	D77-16		5,426	10-01-76					5,426
Bureau of Outdoor Reclamation Land and water conser- vation fund	D77-17		30,000	10-01-76					30,000
National Park Service Road construction	D77-18		3,245	10-01-76 10-01-76		-3,245			0
Geological Survey Payment from proceeds, sale of water	D77-19		30	10-01-76					30
Bureau of Mines Drainage of anthracite mines	D77-20		3,525 42,226	10-01-76			-3,245		3,525 38,981
TOTAL									

B-8

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency House Senate	Adjustments	Amount Deferred as of 11-01-76
Federal Prison System: Buildings and Facilities	D77-21		1,900	10-01-76			1,900
TOTAL			1,900				1,900

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STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency House Senate	Adjustments	Amount Deferred as of 11-01-76
Administration of Foreign Affairs						
Acquisition, operation, and maintenance of buildings abroad	D77-22	14,225	10-01-76			14,225
TOTAL		14,225				14,225

B-10

STATUS OF DEFERRALS

FISCAL YEAR 1977

(Amounts in thousands of dollars)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases Resulting From Subsequent Actions Taken by		Amount Deferred as of 11-01-76
				OMB/Agency	House Senate	
Coast Guard Acquisition, construction and improvements	D77-23	22,581	10-01-76			22,581
Federal Aviation Administration Civil supersonic aircraft development termination	D77-24	464	10-01-76			464
Facilities and equipment (Airport and airway trust fund)	D77-25	276,101	10-01-76			276,101
TOTAL		299,146				299,146

STATUS OF DEFERRALS

B-11

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Treasury

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Senate	Adjustments	Amount Deferred as of 11-01-76
Office of the Secretary								
State and local government fiscal assistance trust fund	D77-26	113,732	1/10-01-76 11-01-76	-28,433				85,299 1/
State and local government fiscal assistance trust fund	D77-27	10,000	1/10-01-76					10,000 1/
State and local government fiscal assistance trust fund	D77-28	81,500	10-01-76 11-01-76	-226				81,274
TOTAL		81,500BA 123,7320		-226BA -28,4330				81,274BA 95,2990

1/ Outlays only.

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STATUS OF DEFERRALS

FISCAL YEAR 1977

(Amounts in thousands of dollars)

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency House Senate	Adjustments	Amount Deferred as of 11-01-76
Rare Silver Dollar Program	D77-29	1,709	10-01-76			1,709
TOTAL		1,709				1,709

B-13

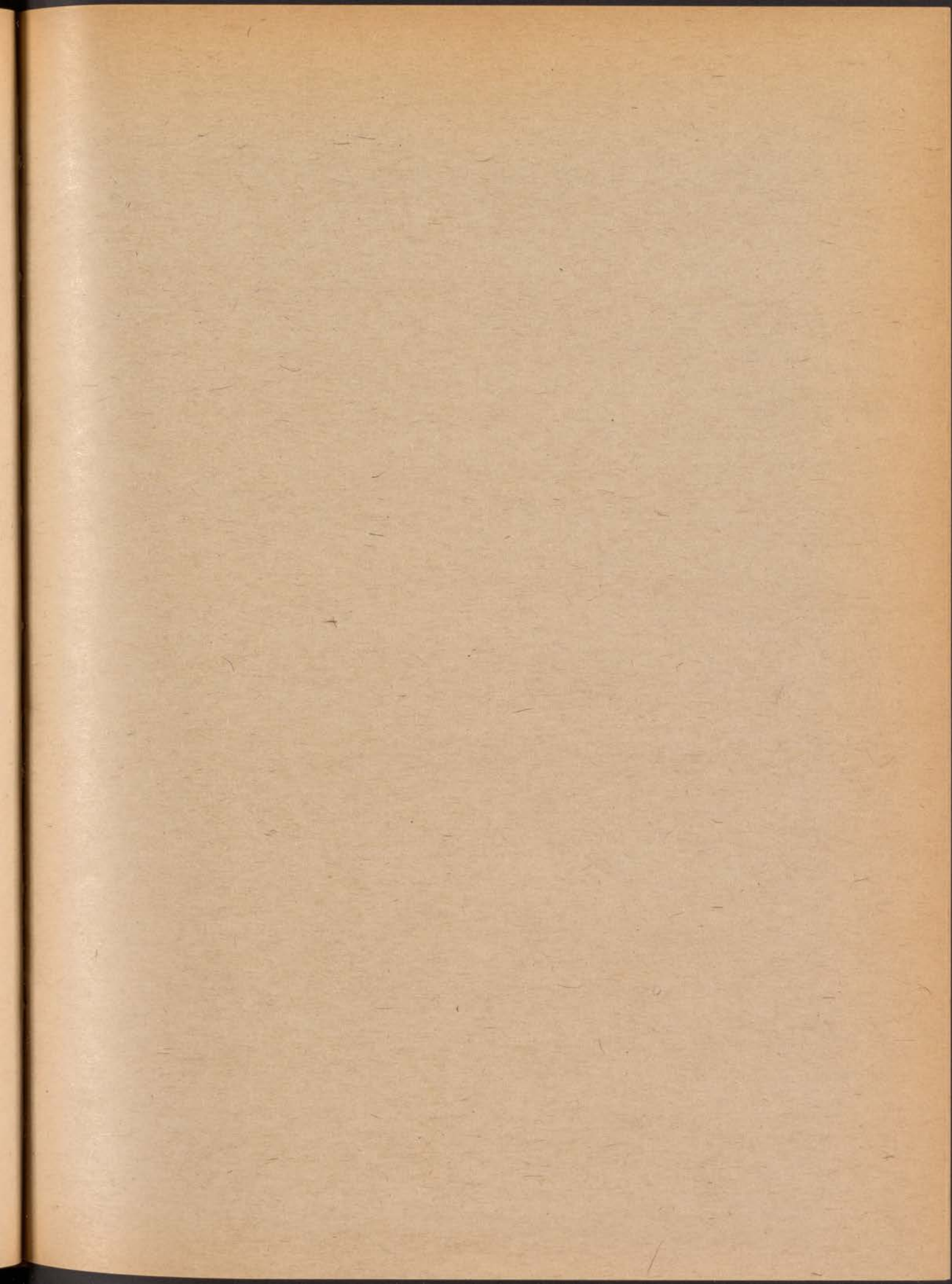
STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies

Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency House Senate	Adjustments	Amount Deferred as of 11-01-76
<u>Foreign Claims Settlement</u>					
<u>Commission</u>					
Payment of Vietnam prisoner of war claims	10,833	10-01-76			10,833
D77-30					
<u>American Revolution</u>					
<u>Bicentennial Administration</u>					
Salaries and expenses	1,346	10-01-76			1,346
D77-31					
<u>Interstate Commerce</u>					
<u>Commission</u>					
Payment for directed rail service	13,700	10-01-76			10,700
D77-32					
<u>National Commission on the</u>					
<u>Observance of International</u>					
<u>Women's Year</u>					
Salaries and expenses	680	10-01-76			680
D77-33					
TOTAL	26,559				26,559
	637,965BA		-4,471BA		633,494BA
	123,7320		-28,4330		95,2990
TOTAL, ALL DEFERRALS					

[FR Doc.76-33682 Filed 11-11-76;10:47 am]



THE HISTORY OF THE CITY OF BOSTON

FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME
BY
JOHN H. COLEMAN
OF THE CITY OF BOSTON

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BOSTON:
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